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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY THE STATES PARTIES
IN ACCORDANCE WITH ARTICLE 40 OF THE COVENANT

Fourth periodic reports of States Parties due in 1996

Addendum

JAPAN*

[16 June 1997]

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* For the initial report submitted by the Government of Japan, see document CCPR/C/10/Add.1; for its consideration by the Committee, see document CCPR/C/SR.319, SR.320 and SR.324 and the Official Records of the General Assembly, Thirty-seventh session, Supplement No. 40 (A/37/40), paras. 53-91. For the second periodic report of Japan, see document CCPR/C/42/Add.4 and Corr.1 and 2; for its consideration, documents CCPR/C/SR.827 to SR.831 and the Official Records of the General Assembly, Forty-third session, Supplement No. 40 (A/43/40), paras. 582-633. For the third periodic report of Japan, see document CCPR/C/70/Add.1 and Corr.1 and 2; for its consideration, documents CCPR/C/SR.1277 to SR.1280 and the Official Records of the General Assembly, Forty-ninth session, Supplement No. 40 (A/49/40), paras. 98-116.

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I. GENERAL COMMENTS

1. The initial, second and third periodic reports described the institutional aspects of human rights protection in the Japanese legal system in which the Constitution is the supreme law, and the relationship between domestic laws and the International Covenant on Civil and Political Rights. The following are supplementary explanations.

The concept of the public welfare in the Japanese Constitution

2. Article 11 of the Constitution stipulates that the people shall not be prevented from enjoying any of the fundamental human rights and that these fundamental human rights guaranteed to the people by the Constitution shall be conferred upon the people of this and future generations as eternal and inviolable rights. But, at the same time, article 12 stipulates that the freedoms and rights guaranteed to the people by the Constitution shall be maintained by the constant endeavour of the people, who shall refrain from any abuse of these freedoms and rights and shall always be responsible for utilizing them for the public welfare, and article 13 stipulates that all the people shall be respected as individuals and that their rights to life, liberty and the pursuit of happiness shall, to the extent that it does not interfere with the public welfare, be the supreme consideration in legislation and in other governmental affairs.

3. These articles imply that human rights are eternal and inviolable rights, but that they may be restricted by their inherent nature so that conflicting fundamental rights can be coordinated and each individual's rights are respected at an equal level. For example, the punishment for infringing on other people's honour may restrict the freedom of expression, but it is inevitable to protect other people's honour. This kind of restriction can be explained under the concept of the "public welfare".

4. There is, however, no room for restriction under the concept of "public welfare" on all those human rights which bear no possibility of interfering with other people's rights. The freedom of inner thought and conscience (article 19 of the Constitution), for example, is interpreted to be absolute, and no restrictions are permitted.

5. Furthermore, as to whether laws and regulations restricting human rights can be justified as reasonable in light of the "public welfare", based on legal precedents the courts permit the legislature relatively broader discretion on laws and regulations which restrict economic liberty, such as the freedom of business; however they employ strict criteria in interpreting those laws and regulations which restrict freedom of thought, permitting the legislature little discretion.

6. The concept of the "public welfare" has thus been defined by legal precedents and depends on the nature inherent of each right, while the Constitution has no provisions articulating the "public welfare". There would therefore be very little room for arbitrary use of the concept of the "public welfare" by the State.

7. The Constitution, which refers only to the "public welfare" as grounds for restricting human rights, seems to be different from the International Covenant on Civil and Political Rights which specifies the grounds for restricting individual rights. However, the Constitution applies substantially the same grounds as the Covenant, through elaborating the content of the concept of "public welfare", as explained above.

8. Annex I contains the legal precedents for the restriction of rights under "public welfare".

Relationship between the Covenant and domestic laws (including the Constitution)

9. Provisions of treaties concluded by the Government of Japan have legal effect as part of its internal law in accordance with article 98, paragraph 2, of the Constitution. Whether or not to apply directly provisions of treaties is determined in each specific situation, taking into consideration the purpose, meaning and wording of the provisions concerned. This applies also to the Covenant.

10. Annex II contains court decisions on whether domestic laws, regulations and measures were in violation of the provisions of the Covenant. In no case did the Supreme Court find, however, that laws, regulations and measures were in violation of the provision of the Covenant.

11. The Constitution is Japan's supreme law and supersedes the Covenant in domestic effect. However, since the Constitution can be interpreted as covering the same range of human rights as the Covenant, as outlined above, there can be no conflict between the Constitution and the Covenant.

Human rights protection mechanisms in Japan

Human rights protection by human rights organs

12. Appendix 1 of the second periodic report showed the mechanism of the human rights organs established as government agencies whose primary purpose is to protect human rights. The detailed procedures of human rights counselling, research and settlement of cases involving human rights violations are as specified below.

13. As of 1 January 1996, 13,735 civil volunteers were serving as Civil Liberties Commissioners.

14. Human rights counselling. Human rights counselling is provided at permanent centres (located at Legal Affairs Bureaux and at district Legal Affairs Bureaux) and at designated counselling centres (occasionally located in department stores and so on). Counselling is also provided in private houses of Civil Liberties Commissioners. The officers of (District) Legal Affairs Bureaux or Civil Liberties Commissioners assist people in each case through advising on procedures to solve the problem, turning the case over to the investigation procedure for cases involving human rights violation, or introducing the relevant government/public offices to those concerned.

15. Investigation and settlement of cases involving human rights violations. The human rights organs start investigations in response to complaints or information from victims, other persons concerned, or when they are informed of suspected human rights violations from such sources as newspapers and government/public offices. If the organs conclude that the act in question violates the rules and/or ordinances or, further, that the act goes against the notion of respect for human rights, which is one of the most fundamental principles of the Constitution, the organs have the following measures at their disposal.

(a) Against those who violated human rights of others, or those who were in position to direct or supervise the violator, the organs may:

(i) File for proceedings under the Code of Criminal Procedure;

(ii) Point out the violation in writing and issue the necessary recommendations;

(iii) Report the violation in writing to the relevant government/public offices; and

(iv) Give an oral warning or a warning in writing to the violator and his/her supervisor to reflect upon and improve the situation;

(b) Contact the relevant government/public offices, alert legal aid offices, offer legal advice and take other appropriate measures to help the victims;

(c) Take appropriate measures for/against the people concerned with a view to eradicating human rights violations, such as through recommendations, offering mediation and so on.

16. By the procedure mentioned above the organs seek the victim's relief by raising awareness of human rights in their investigation and settlement process and letting the violator and other people concerned voluntarily end or prevent the infringement. It is the violators themselves who decide if they accept the outcome of the process. However, the measures neither aim at delimiting the specific rights of citizens nor at eliminating violation by force. Rather, they aim at encouraging people's efforts to end or prevent human rights violations through raising their awareness of human rights. The human rights organs have contributed to the elimination and prevention of human rights violations by educating the people concerned and they have considerably raised public awareness in that regard.

17. Civil Liberties Commissioners for the Rights of the Child. The human rights organs have been deeply concerned with problems related to the rights of the child, such as bullying, physical punishment, refusal to attend school and so on. Further, since 1994 some Civil Liberties Commissioners have been appointed as Civil Liberties Commissioners for the Rights of the Child in order to deal specifically with problems concerning children's rights. Since 1 January 1996, 515 Commissioners have been appointed to this position in the

whole country. They are engaged in activities such as organizing lectures, symposia and other activities for children, parents and others to further the protection of children's rights.

Measures for the United Nations Decade for Human Rights Education

18. The United Nations General Assembly adopted in 1994 at its forty-ninth session a resolution proclaiming the 10-year period starting from 1995 the United Nations Decade for Human Rights Education. The Government established on 18 March 1996, by cabinet decision, the Headquarters for the Promotion of the United Nations Decade for Human Rights Education, with a view to promoting measures for the Decade by the Government as a whole, with the close cooperation of relevant ministries and agencies. The ministries and agencies concerned have discussed and considered national measures for the Decade. The Government confirmed its commitment to promote measures for the Decade at the first meeting of the Headquarters held on 18 March 1996.

19. The ministries and agencies are continuing their urgent work of elaborating the National Plan of Action for the acceleration and furtherance of national measures for the United Nations Decade for Human Rights Education.

II. INFORMATION ON INDIVIDUAL ARTICLES OF THE COVENANT

20. Changes made on, and supplementary explanations to the initial, second and third periodic reports on individual articles of the Covenant are as specified below.

Article 1

Apartheid policy

21. Japan had consistently urged the abolishment of apartheid. Japan therefore welcomes the fact that the Republic of South Africa accelerated national reform since 1990 in the quest for the termination of apartheid, and the successful holding of general elections in April 1994 in which members of all races, including black people, participated for the first time in the history of South Africa.

22. In response to the progress achieved in the process of national reforms in the Republic of South Africa, Japan eased restrictions on people-to-people contact in June 1991, and eased economic restrictions in October 1991. In January 1992, Japan re-established diplomatic relations with the Republic of South Africa, and lifted the remaining economic restrictions in January 1994.

23. Japan regards South Africa as a successful example of a peaceful transition to a new regime, which took place in the spirit of reconciliation and through dialogue, and considers that South Africa's stability and development are important for the development of Africa as a whole. Thus, as a responsible member of the international community, Japan decided to strengthen its support for South Africa. Japan announced in July 1994 an assistance package for South Africa amounting to 1.3 billion dollars over the following two years (300 million dollars in Official Development Assistance (ODA), 500 million dollars in loans from the Export-Import Bank of Japan, and

a 500 million dollar credit line for trade and overseas investment insurance). Japan is now implementing the above measures and will actively continue its support to South Africa's efforts in nation-building.

Article 2

Concerns pertaining to foreigners

Korean residents in Japan

24. Fingerprinting based on the Alien Registration Law. The purpose of the fingerprinting system is to maintain the accuracy of alien registration. It serves as an effective tool to attain its basic purpose, i.e. "to clarify the matters pertaining to the residence and status of foreign residents in Japan". In fact, it has worked as a very reliable measure for identifying people. The fingerprinting system has also worked for the prevention of the illegal use or forgery of registration certificates. However, when the consultations between the Governments of Japan and the Republic of Korea under the Agreement between Japan and the Republic of Korea on the Legal Status and the Treatment of the Nationals of the Republic of Korea residing in Japan came to an end, a memorandum was prepared and signed by the Ministers for Foreign Affairs of Japan and the Republic of Korea which stipulated the following:

(a) Alternative measures to fingerprinting would have to be developed as soon as possible by the Japanese Government; and

(b) Not only the third generation and their descendants (article 2 of said Agreement), but also the first and the second generations of Korean residents would be exempted from fingerprinting.

25. The Government of Japan, in light of the above-mentioned circumstances, has examined a possible reform of the system, in particular alternative measures to fingerprinting. It has reached the conclusion that those who have lived in Japanese society for many years and thus established themselves, could be registered with a combination of accurate photographs, signature and family particulars instead of making fingerprinting, provided they belong to at least one of the following two categories:

(a) Permanent residents, who meet the specifications for "a permanent resident" under the regulations of the Immigration Control and Refugee Recognition Act;

(b) Special permanent residents, who meet the specifications of "a special permanent resident" provided for under the provisions of the Special Law Regarding Control of the Entry into, and Departure from, Japan of People Who Renounced Their Japanese Nationality on the Basis of Peace Treaties with Japan. So-called Korean residents in Japan are covered by this law.

26. Following this conclusion, the Alien Registration Law was amended with the prime objective being to replace fingerprinting with the alternative measures outlined above and to abolish fingerprinting for those who are in the above categories. The amendment was promulgated on 1 June 1992 and it went into effect on 8 January 1993.

27. Obligation to carry the Certificate of Alien Registration. Foreign residents, unlike Japanese nationals, have to obtain permission from the Government in order to reside in Japan. At the same time, limitations are set on their period of stay and on the scope of their activities. The system which requires foreign residents to carry with them at all times the Certificate of Alien Registration aims at ensuring the means to immediately confirm the identity and residence of foreign residents, whose status is fundamentally different from that of Japanese nationals. Failure to meet this obligation is liable to a penalty (a fine of 200,000 yen or less is imposed), and thus the effectiveness of the system is guaranteed. However, during the three years 1992 to 1994, fewer than 20 persons were sent to the public prosecutor by the judicial police officer each year, that is, the rule has been implemented flexibly taking due consideration of the various situations of foreign residents. An extensive review of the Alien Registration Law, including the obligation described above, is currently under way by the Government.

28. Student commuter discount passes for students of Korean schools. The commuter pass system of each Japan Railway Company (JRs), previously Japan National Railways, provides a basic price for university students and a further price discount is made for elementary, middle and high school students, in line with the school classification system defined under the School Education Law. However, for students of special technical schools specified under the School Education Law, JRs designated those which could benefit from the fare applied to university students. JRs had actually planned to simplify its commuter pass system and to have just two fare classifications, for adults and children, the system which is applied by other private railways. However, as no clear timetable for the amendment was provided, the Government called upon JRs to consider temporary measures for students of special technical schools, taking into account previous requests to the Government. As a result, in April 1994, JRs amended the commuter fare and applied the same elementary, middle and high school discount to all those schools which JRs thought were equivalent to special technical schools. The designated schools included Korean schools as special technical schools, and the commuter pass system for Korean students has thus been improved.

29. Response to incidents of violence against students of Korean schools. During the spring and summer of 1994, some incidents, including violence against and harassment of students of Korean schools, occurred in Japan. The human rights organs under the Ministry of Justice undertook a series of vigorous street campaigns, which were geared towards eliminating the violence against and harassment of foreigners. These included distribution of leaflets and posters, which called for the prevention of such incidents, along roads and in transportation facilities frequently used by students of Korean schools. Furthermore, the organs encouraged students of Korean schools to consult with the organs if they were subjected to harassment. The organs have taken measures to instil respect for the rights of foreign residents in Japanese people's minds and to eliminate discrimination and stereotypes in order to prevent the recurrence of this sort of incident.

30. Acceptance of foreign workers. Under the Sixth Employment Measures Basic Plan, which was described in the third periodic report and defines the basic policy on acceptance of foreign workers, the Government amended the Immigration Control and Refugee Recognition Act in 1989 and made it easier for foreigners with specialized technical skills and knowledge who wish to work in Japan to be accepted. The Government's current basic policies are specified in the Eighth Employment Measures Basic Plan, which was adopted by cabinet decision on 12 December 1995. The plan announces that the Government will give as much favourable considerable as possible to accepting foreign workers in professional or technical fields. This aims at stimulating the economy and promoting internationalization. It also announces that the qualifications for residence in Japan should be reviewed in accordance with changes in the economic or social situation. Concerning unskilled workers, on the other hand, the view is that their presence could cause considerable effects on the Japanese economy and society such as: pressure on older Japanese workers for whom employment opportunities are rather limited; a new dual structure in the labour market; unemployment as a result of business fluctuations; and new social expenses and so on. Since these issues would also have a significant influence on both the foreign workers themselves and their countries, the Plan calls for careful consideration of this issue, based on a consensus among the Japanese people.

31. The employment exchange system. The Employment Security Law provides that people should not be discriminated against on account of their nationality in employment exchange, counselling, etc. (art. 3). Foreigners qualified to work in Japan should, therefore, be able to obtain the same information on employment as Japanese nationals. The Public Employment Security Offices, however, should not accept applications or recruitment under articles 16 and 17 of the Employment Security Law if the application or recruitment in itself constitutes a violation. Accordingly, jobs that would violate the Immigration Control and Refugee Recognition Act are not offered. Since 1989 special officials were appointed at major Public Employment Security Offices to take care of foreign workers, thereby enhancing the use by foreigners of the employment exchange system. Likewise, Employment Service Sections for Foreign Workers have been established in the major Public Employment Security Offices since 1992 and an Employment Service Centre for Foreigners was established in Tokyo in 1993. The administration guides and/or assists employers to improve the employment security and welfare of foreign workers based on the Guidelines on Employment and Working Conditions of Foreign Workers, which were established in 1993.

32. Supervision by the police. The police, applying the laws and regulations as described in the third periodic report, have actively applied the regulations on middlemen, gangster groups and unlawful employers. The regulations have been enforced through close cooperation among relevant governmental organizations and agencies and through the exchange of information at periodic contact meetings with the relevant administrative entities. The police have further called upon the Governments of other countries to strengthen regulations and to provide necessary information and the like;

33. A supplementary explanation concerning the Immigration Control and Refugee Recognition Act is as follows: Any person who has a foreigner work illegally in relation to business activities (article 73-2, paragraph 1, subparagraph 1 of the Act), or any person who places a foreigner under another's control for the purpose of having the foreigner work illegally (subparagraph 2 of said paragraph), or anyone who acts as a mediator in relation to acts specified in the preceding subparagraph or in order to have a foreigner work illegally, shall be punished.

34. Foreigners intending to engage in unskilled labour in Japan. As has already been described in the third periodic report, the Government does not, in principle, admit the entry of foreigners who wish to engage in unskilled labour into Japan. In the case of persons who have already engaged illegally in unskilled work, the Government will deport them as a matter of principle, paying due respect to their human rights. The problem of illegal foreign workers can obviously not be ignored from the viewpoint of labour administration, since this could affect the domestic labour market and working conditions, such as wages. The Government provides employers with information and urges them to prevent illegal employment. Notwithstanding the foregoing, the number of illegal workers still remains high, and in particular the number of illegal female workers has increased over the past few years. In terms of sectorial distribution, the number of illegal construction workers, factory workers and other secondary industry workers seems to have decreased gradually, while other industries have seen an influx of illegal workers. More than half of all illegal workers were formerly employed for less than a year, while in recent years more than 70 per cent stay for more than one year. This gives rise to new problems involving the proliferation of long-term illegal workers. Furthermore, it is still obvious that brokers and gangster groups are involved in the entry and employment of illegal workers.

35. Measures taken by the human rights organs under the Ministry of Justice to ensure the protection of human rights of foreigners. The human rights organs under the Ministry of Justice are engaged in vigorous awareness-raising activities which aim at respecting the fundamental human rights of foreigners and eliminating discrimination against them. The human rights organs carried out the 1988-1990 campaign entitled "Internationalization of society and human rights", and the 1991-1993 campaign entitled "Nurture awareness for human rights in the era of internationalization". During Human Rights Week, the human rights organs have employed since 1988 the motto "Nurture awareness for human rights in the era of internationalization". The Week aims at promoting awareness-raising activities at the national level. Furthermore, if violations of fundamental human rights take place, the human rights organs try to protect the human rights of foreigners, and make efforts to prevent these cases from recurring through investigation and settlement of the case. (See Part I for details on human rights counselling and the investigation and settlement of cases involving human rights violations.) The first counselling centre for foreigners opened in 1988 in the Tokyo Legal Affairs Bureau, followed by the Osaka, Nagoya, Hiroshima, Fukuoka, Takamatsu and Kobe (District) Legal Affairs Bureaux.

36. Outline of the consultation service on immigration matters (residence procedures, alien registration, etc.). As was described in the third periodic

report, the Immigration Information Centre was established at the Tokyo Regional Immigration Bureau in July 1990, in order to facilitate consultations and information services on immigration procedures for foreign residents and other persons concerned. Free service is provided from Monday to Friday (except on holidays). Telephone consultation is also available in several languages. Information centres are currently operating at immigration offices in Osaka, Nagoya, Fukuoka and Yokohama. Other than those information centres, the same service is available at consultation windows at local immigration offices.

Social security

37. Japan acceded to the Convention relating to the Status of Refugees in 1981. Basically, the social system applies to foreigners legally residing in Japan, in accordance with the fundamental principle of equality between foreigners and Japanese nationals.

38. Public medical care and pensions. Foreigners who are regularly employed in Japan at a fixed place of business are eligible, in the same way as Japanese nationals are, for health insurance, employees' pension insurance and other public employees' health pension schemes. Those who are outside this category but are still recognized as having a residence in Japan are eligible to receive national health insurance and/or national pension benefits.

39. National assistance. The national assistance system guarantees a minimum healthy standard of life for those nationals who live below the poverty level. Benefits are granted to permanent residents under the same conditions as to Japanese nationals.

Measures for persons with disabilities

40. Japan has strived to realize and promote "Full participation and equality", the theme of the 1981 International Year of Disabled Persons, through the Long-Term Programme for Government Measures for Persons with Disabilities of 1982. Furthermore, in March 1993, with the idea of rehabilitation and normalization, Japan decided on the New Long-Term Programme for Government Measures for Persons with Disabilities, considering measures for persons with disabilities during and following the United Nations Decade of Disabled Persons. The Programme provides the basic principles for measures for persons with disabilities up to the year 2002. In December 1993 Japan passed the Disabled Persons' Fundamental Law, to respond to the changes in social circumstances and to promote independence and social participation of persons with disabilities. Annual reports on government measures for persons with disabilities (White Papers on Persons with Disabilities) have been submitted to the Diet since 1994.

41. In December 1995, Japan decided on the Government Action Plan for Persons with Disabilities - A Seven-Year Normalization Strategy (1996-2002), to address the important measures outlined in the New Long-Term Programme for Government Measures for Disabled Persons. This plan sets numerical targets and promotes its implementation with the following seven perspectives:

(a) Living in communities as ordinary citizens;

(b) Promoting the social independence of persons with disabilities;

(c) Promoting a barrier-free society;

(d) Targeting the quality of life;

(e) Assuring security in living;

(f) Removing psychological barriers; and

(g) Promoting international cooperation and exchange.

Conclusions on the various human rights treaties

International Convention on the Elimination of All Forms of Racial Discrimination

42. Japan has studied this issue carefully. It was difficult to accommodate punishment for dissemination of ideas based on racial discrimination or incitement to racial discrimination, with freedom of expression and other fundamental human rights protected by the Constitution. As a result of a careful examination of the issue, Japan ratified the International Convention on the Elimination of All Forms of Racial Discrimination on 15 December 1995 with a reservation on the provisions (paragraphs (a) and (b) of article 4 of the Convention) on the obligation to punish all dissemination of ideas based on racial superiority or hatred.

Optional Protocol to the International Covenant on Civil and Political Rights

43. As has already been stated in the third periodic report, Japan considers this Protocol to be a noteworthy system of guaranteeing human rights. However, Japan faces problems, yet to be solved, with respect to ratification, being concerned about how to harmonize this system and the Japanese judicial system, in particular maintaining the independence of the judiciary. The concerned government offices are, therefore, continuing their study and consideration on this issue.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

44. It is commonly known that torture is strictly prohibited under Japan's legislation. The Government fully understands the purport of the Convention to globally suppress cruel and inhuman acts of torture by Governments. The Government is presently in the process of examining the details of the Convention and considers that further careful examination is necessary for its effectiveness.

Article 3

National machinery for the promotion of gender equality

Organizational changes: replacing the Headquarters for the Planning and Promoting of Policies Relating to Women with the Headquarters for the Promotion of Gender Equality

45. As is stated in the third periodic report, the Headquarters for the Planning and Promoting of Policies Relating to Women was established in 1975 as the national machinery to promote comprehensive and effective policies for women. It was presided over by the Prime Minister and composed of administrative vice-ministers and representatives of the equivalent of all ministries and agencies. The Headquarters was primarily engaged in the formulation of national plans of action for the advancement of women.

46. After having considered requests from various domestic and international circles to strengthen this national machinery, a cabinet decision was taken on 12 July 1994 to replace the Headquarters for the Planning and Promoting of Policies Relating to Women with the Headquarters for the Promotion of Gender Equality. The Prime Minister serves as President, the Minister of State and Chief Cabinet Secretary as Vice-President and all other cabinet ministers serve as members, instead of the vice-ministers as formerly. The new Headquarters is expected to promote measures which encourage the smooth and effective formation of a society based on gender equality. The Headquarters has taken over and continues to promote the New National Plan of Action Towards the Year 2000 (First Revision) formulated in 1991. (For details of this plan, please refer to the third periodic report.)

47. The Council for Gender Equality and the Office for Gender Equality were established within the Prime Minister's Office on 24 June 1994. The Prime Minister consulted with the Council on 24 June 1994 on the "Over-all vision of a gender-equal society towards the twenty-first century". The Council submitted its report, entitled "The vision for gender equality", to the Prime Minister on 30 July 1996, after having examined various national opinions and views as well as international trends, such as those of the platform for action adopted by the Fourth World Conference on Women. This report, taking into account the socio-economic changes Japan is undergoing, establishes the path which should be followed to realize a gender-equal society by about the year 2010. According to the report, the main objectives are:

(a) To construct a gender-free social system;

(b) To establish gender equality in the workplace, home and community;

(c) To promote gender equality in decision-making processes;

(d) To reinforce efforts to promote and protect the right to live without gender discrimination;

(e) To contribute to the "equality, development and peace" of communities;

(f) To clearly define such efforts and accordingly improve and strengthen the organization and functions of the national machinery; and

(g) To strengthen partnership and cooperation between the Government, local public bodies and non-governmental organizations.

Appointment of Minister for Women's Affairs

48. When the Miyazawa Cabinet was reshuffled in December 1992, the Chief Cabinet Secretary was appointed as Minister for Women's Affairs. Since August 1993, the Chief Cabinet Secretaries have continued to be appointed to this post. The Minister is responsible for the comprehensive promotion of women's issues through the coordination of the duties of each administrative jurisdiction. The Minister has headed various activities thus far.

Women's participation in decision-making processes

49. With regard to Japanese women's participation in public affairs, the number of female Diet members is indicated in table 1 and the positions held by women in the Diet are listed in table 2.

Table 1. Changes in the number of female members in the diet

	Members of the Diet			Members of the House of Representatives			Members of the House of Counsellors		
	Total	Female members	Ratio of females %	Total	Female members	Ratio of females %	Total	Female members	Ratio of females %
March 1992	751	46	6.1	502	12	2.4	249	34	13.7
July 1992	752	49	6.5	500	12	2.4	252	37	14.7
March 1993	749	49	6.5	497	12	2.4	252	37	14.7
March 1994	761	52	6.8	509	14	2.8	252	38	15.1
March 1995	753	51	6.8	503	13	2.6	250	38	15.2
March 1996	746	48	6.4	494	12	2.4	252	38	14.3

Based on a survey by the secretariats of both Houses.

Table 2. Positions in the Diet held by women

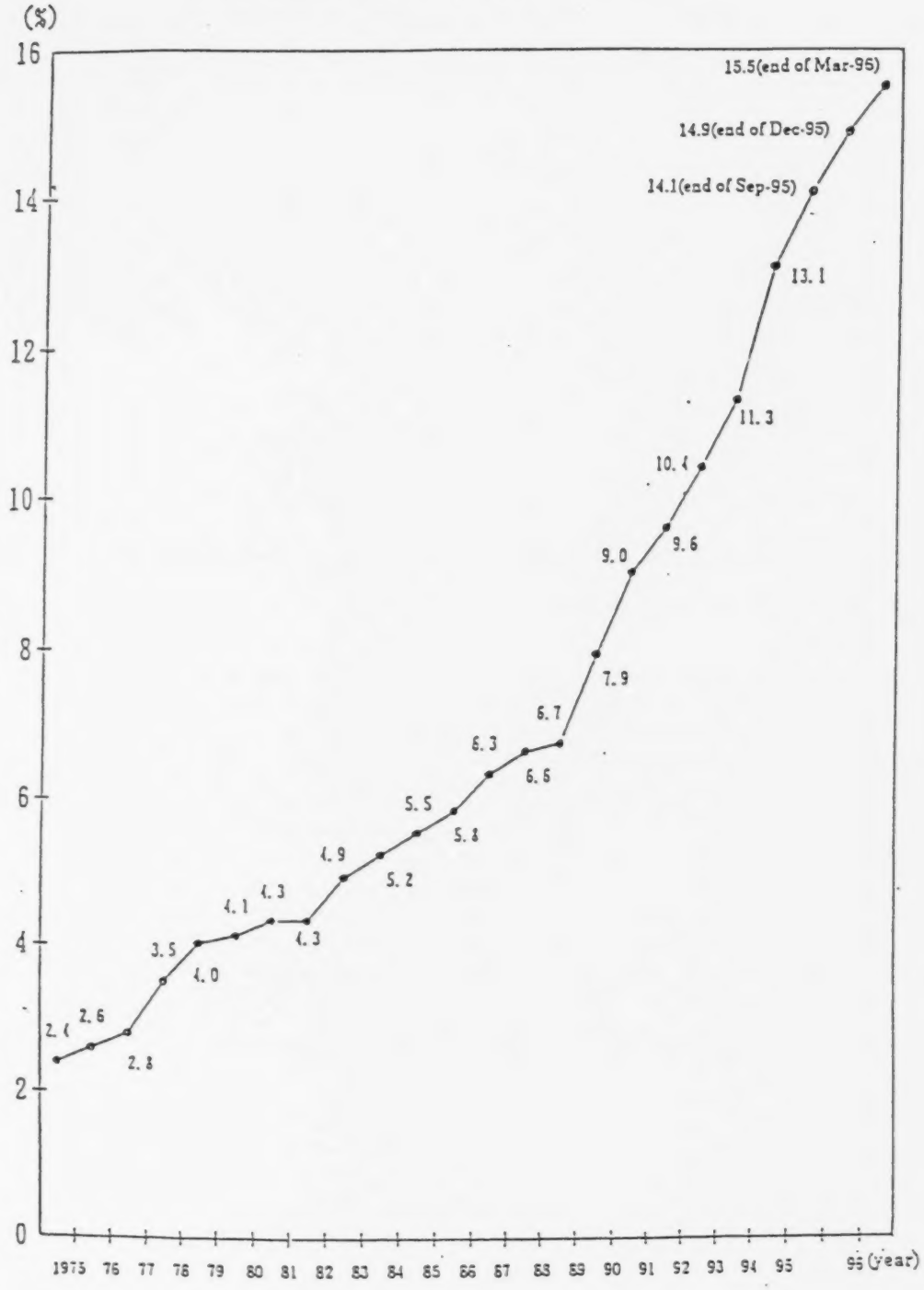
		Number of female Diet members	Speaker (President)/Deputy Speaker (Vice-President)	Chairperson of the standing committee	Director of the standing committee	Chairperson of the special committee
House of representatives	March 1991	12	0	0	0	0
	March 1992	12	0	0	3	0
	March 1993	12	0	0	3	0
	March 1994	14	1	0	2	0
	March 1995	13	1	0	1	0
	March 1996	12	1	0	1	0
House of Counsellors	March 1991	34	0	0	4	1
	March 1992	34	0	3	5	0
	March 1993	37	0	1	6	1
	March 1994	38	0	2	9	1
	March 1995	38	0	3	8	1
	March 1996	36	0	1	8	2

Source: Prime Minister's Office/Survey.

50. Based on the Nairobi Forward-looking Strategies, the above-mentioned New National Plan of Action Towards the Year 2000 (First Revision) stated that the ratio of women members in national advisory councils and other committees should be drastically increased, in order for more women to participate in decision-making processes in Japan. It was decided that the ratio should be increased to an overall 15 per cent level by March 1996. The ratio stood at 15.5 per cent by the end of that month and the target has therefore been achieved (for the number of women appointed as members of national councils and other committees refer to figure 1 and table 3). With the initial target thus reached, the Headquarters for the Promotion of Gender Equality decided on 21 May 1996 that: "Our further efforts should continue to be directed towards the promotion of women's participation in decision-making processes, so that we can attain the international target level of 30 per cent in about 10 years' time. For the moment, efforts will be made to attain a 20 per cent representation ratio as soon as possible and before the end of the year 2000".

Figure 1. Changes in the percentage of female members in the National Commission

(15% targeted for end of FY1995(end of March 1996))



Based on a survey by the Prime Minister's Office.

Table 3. Changes in the female participation in national advisory councils and committees

	Number of councils and committees (A)	Number of councils w/female members (B)	Ratio of councils w/female members (B/A)	Number of members (C)	Number of female members (D)	Ratio of female members (D/C)
1 Jan. 1975	237	73	30.8	5 436	133	2.4
1 June 1980	199	92	46.2	4 504	186	4.1
31 Mar. 1985	206	114	55.3	4 664	255	5.5
31 Mar. 1988	203	123	60.6	4 509	297	6.6
31 Mar. 1989	203	121	59.6	4 511	304	6.7
31 Mar. 1990	204	141	69.1	4 559	359	7.9
31 Mar. 1991	203	154	75.9	4 434	398	9.0
31 Mar. 1992	200	156	78.0	4 497	432	9.6
31 Mar. 1993	203	164	80.8	4 560	472	10.4
30 Sept. 1993	201	162	80.6	4 509	481	10.7
31 Mar. 1994	200	163	81.5	4 478	507	11.3
30 Sept. 1994	200	166	83.0	4 490	549	12.2
31 Mar. 1995	203	174	85.7	4 496	589	13.1
30 Sept. 1995	207	175	84.5	4 484	631	14.1
31 Dec. 1995	208	180	86.5	4 522	672	14.9

Source: Survey conducted by the Prime Minister's Office on government advisory councils based on article 8 of the National Government Organization Law (excluding those undergoing selection or suspension and those placed in regional and district offices).

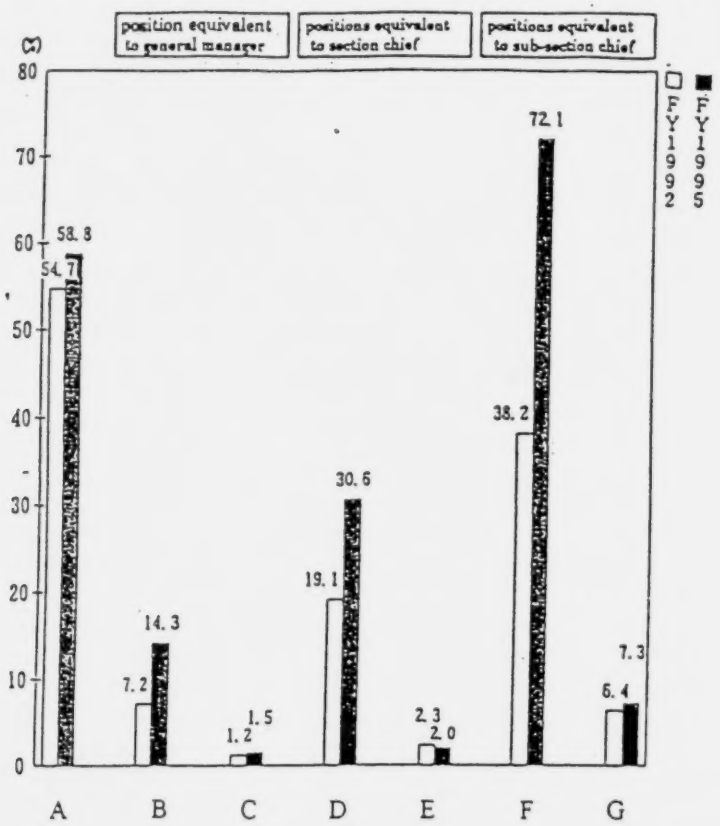
Employment measures for women

Japanese women's employment situation

51. Ten years have passed since the Equal Employment Opportunity Law went into effect. In the meantime, companies have improved personnel management and the spirit of the law has been steadily disseminated within Japanese society. Women, for example, have been assigned to an increasing range of duties. Nearly 50 per cent of companies have adopted the idea of assigning women to duties fitting their ability and aptitude in the same way as they do with men. The number of women holding managerial positions has also increased. In approximately 60 per cent of companies, women hold the position of section chief, equivalent or higher (refer to figure 2). On the other hand, about 50 per cent of companies with a smaller number of women holding managerial positions cite as the reasons for the situation that "the company has no women with the knowledge, experience, judgement and other abilities required for the positions". The discriminatory compulsory retirement system and the system forcing women to retire because of marriage, pregnancy or childbirth have been formally dissolved.

52. With regard to gender equality in the employment of national public service personnel, Japan abolished restrictions on women's eligibility to take the national public service examination by amending the regulations of the National Personnel Authority. At present, there are no gender restrictions on women taking the national public service examination (general positions), or being hired and so on (for the ratio of women among national public service personnel in managerial positions, refer to table 4).

Figure 2. Condition of female administration, by position



Source: Ministry of Labour, "Survey on Women Worker's Employment Management 1995".

A - ratio of enterprises with female administrations above subsection chief.

B, D, F - ratio of enterprises with female administrator.

C, E, G - ratio of female administrators.

Note: Ratio of enterprises which have female administrators.

$$= \frac{\text{Enterprises which have female administrators in position concerned.}}{\text{Number of enterprises which have position concerned}} \times 100$$

Ratio of female administrators

$$= \frac{\text{Number of related female administrators}}{\text{Number of related administrative positions}} \times 100$$

Table 4. Number and ratio of female national public service personnel in administrative positions

(Designated Service, Administrative Service I, Professional Administrative Service)

	FY1975	FY1980	FY1985	FY1990	FY1994
Number of upper-level female national public service personnel	20	42	40 (43)	67 (70)	83 (88)
Ratio of upper-level female national public service personnel	0.3%	0.5%	0.5% (0.5%)	0.8% (0.8%)	0.9% (0.9%)

Source: National Personal Agency survey.

Note: Figures taken from the end of each fiscal year.

Upper-level national public service personnel at grade 9 (grade 2, before 1980) and above of designated service or administrative service I (deputy directors of division and above of the central offices). Brackets include those at grade 6 and above of professional administrative service divided from the administrative service I after 1985.

Measures to promote adherence to the Equal Employment Opportunity Law

53. The Women's and Young Worker's Offices, the local branches of the Ministry of Labour at prefectural level, address the practices of personnel management for women, such as recruitment, hiring, assignment or promotion. They educate, consult or instruct employers for a better system, as well as assist them in the settlement of individual disputes. These activities are aimed at further promoting adherence to the Equal Employment Opportunity Law and at realizing personnel management which keeps with the purpose of the law. Specifically, the Women's and Young Worker's Offices annually receive as many as 20,000 requests for consultations from women workers, employers and other parties. The offices instruct those companies having problems under the Equal Employment Opportunity Law. Moreover, they periodically inquire in various companies into the personnel management for women. If problems are found, they firmly demand that the companies take corrective measures. Furthermore, they encourage companies to make individual efforts to improve personnel management in keeping with the Equal Employment Opportunity Law.

Child-rearing and care for the family

54. The Government should promote policies that can enable women and men with family responsibilities to harmonize their working life with family life. This is especially the case in Japan, where a low birth rate, the ageing of society and nuclear families have become the norm and where child-rearing and care for the family have become significant considerations for workers who wish to continue working. The Child-care Leave Law was therefore introduced in 1991. The law recognizes the right to child care leave for workers with children of less than one year of age.

55. According to the Ministry of Labour's Survey on Women Worker's Employment Management conducted in 1993 (sample size: 8,000 companies all over Japan), 48.1 per cent of female workers who gave birth to a child between 1 April 1992 to the end of March 1993 took child-care leave; the rate for male workers was 0.02 per cent. Furthermore, the 1995 amendment to the Child-care Leave Law has not only established a legal system of leave for taking care of the family, but also included measures to be taken by the Government and other organs to support male and female workers who must take care of family members. In addition, by ensuring these child-care leave systems, the Government provides measures to create an environment in which workers can easily take child-care or family-care leave, and thus implement policies which will assist workers easily to reconcile work with family in a comprehensive and systematic manner. Moreover, Japan ratified the ILO Workers with Family Responsibilities Convention, 1981 No. 156 on 9 June 1995.

International cooperation

Women in Development (WID) Initiative

56. The Japanese representative delivered a speech at the 1995 Fourth World Conference on Women which stressed the following three points:

(a) The empowerment of women;

(b) Respect for the human rights of women and the promotion of partnership between men and women, the Government and NGOs; and

(c) Partnership across international borders.

At the same time, with the announcement of Japan's WID Initiative as an international contribution to the empowerment of women, Japan expressed its intention to continue efforts to expand development assistance, paying attention especially to the three priority areas of women's education, health and economic and social participation.

57. In taking this initiative, Japan extends official development assistance (ODA), giving consideration to women's empowerment and gender equality at all stages of women's lives, including schooling, work, giving birth, as well as economic and social participation.

Contributions to the United Nations Development Fund for Women (UNIFEM) for the elimination of violence against women

58. The issue of violence against women is a serious problem, as it was taken up at the Fourth World Conference on Women as one of the critical areas of concern. Japan submitted in 1995 at the fiftieth session of the General Assembly a resolution which called for the establishment of a trust fund within UNIFEM to address issues of violence against women. This action was taken as a positive contribution to this issue which deserves united efforts by the international community, and as a follow-up to the Platform for Action adopted at the Fourth World Conference on Women. This resolution was adopted by consensus, and Japan is prepared to contribute its due share to the fund.

Article 4

59. As is stated in the third periodic report,

(a) In the legislation referring to public emergency, there is no provision which restricts fundamental human rights;

(b) In Japan, in case of emergency, necessary measures would be taken consistent with the Constitution as well as the Covenant.

Article 5

60. As is stated in the third periodic report,

(a) Japan does not, in any way, either interpret the provisions of the Covenant in such a way to destroy the rights and freedoms recognized in the Covenant or to limit them to a greater extent than the Covenant provides for;

(b) In Japan, nobody can use the absence of reference to some rights in the Covenant as a pretext for violating those rights.

Article 6

Capital Punishment

Circumstances under which capital punishment is applied

61. In Japan, the application of capital punishment is limited to 17 crimes which were listed in the third periodic report. After the simplification of texts in accordance with the revision of the Penal Code, the "crime of capsize of a vessel or a railroad train resulting in death" is now called "crime of overturn of a railroad train etc. resulting in death". However, the constituent elements of these crimes did not change. In addition, for these crimes, except for the incitement of foreign aggression, life imprisonment or imprisonment for a limited period is provided as an optional punishment. Hence, in the Japanese legal system, capital punishment is applied only to particularly serious crimes (murder or international acts involving serious risk of injury to human life). Moreover, in concrete cases, capital punishment is applied very strictly and carefully in accordance with the judgement delivered on 8 July 1983 in "Second Petit Bench" of the Supreme Court. The judgement states: "Capital punishment can be applied only when the criminal's responsibility is extremely grave and the maximum penalty is unavoidable from the viewpoint of the balance between crime and punishment, as well as that of general prevention, taking into account the circumstances, such as the nature, motive and mode of the crime, especially the persistence and cruelty of the means of killing, the seriousness of the consequences, especially the number of victims killed, the feelings of the bereaved, social effects, the age and previous convictions of the offender, the circumstances after the commitment of the crime.".

62. A total of 23 persons were sentenced to death in the five years from 1991-1995. All of them committed brutal murder or murder on the occasion of robbery. Moreover, under present conditions, the majority of the Japanese people insist that capital punishment should be maintained to punish those who commit extremely atrocious offences. This attitude was surveyed by public opinion surveys (the last survey was in September 1994).

Treatment of prisoners whose capital sentence becomes final

63. Grounds for detention, general treatment and application of amnesty for prisoners, whose capital sentence becomes final. These are the same as in the third periodic report.

64. Communication with the outside by prisoners whose capital sentence becomes final. The Prison Law provides that the head of the prison considers each case in accordance with the purpose of the detention to decide whether prisoners whose capital sentence becomes final may receive visitors or communicate in any other way with the outside world (art. 45, para. 1 and art. 46, para. 1). In practice, such prisoners are permitted to communicate with relatives, lawyers and so on, except for certain cases which require unavoidable restrictions. The prisoner whose capital sentence becomes final is placed in an extreme position, that is, waiting for execution; it is therefore required to keep them securely in custody. It is also necessary for prisons to ensure the mental stability of the prisoner whose capital sentence

becomes final who, needless to say, feels extremely uneasy and anguished because of the nature of his/her detention. Japanese civil law regards this treatment of persons sentenced to capital punishment as rational and lawful (see, for example, the judgement of the Tokyo District Court of 15 March 1996). No court has ever deemed it unlawful.

Notification to the family of the execution of a death sentence

65. Article 74 of the Prison Law and article 178 of the Prison Law Enforcement Regulations provide that the prisoner's relatives should be notified of his/her death after the execution of a death sentence and that the body or ashes should be delivered to the relative or the like, if they so request. Except for these provisions, there is no other legal provision concerning notification to the family or the like of the execution of a death sentence. Therefore, no outside persons, including family members, are to be notified in advance of the date of execution. The reasons for this treatment are as follows: the family might experience unnecessary mental anguish if they are notified of the date of execution beforehand and if a prisoner whose death sentence has become final receives a family visit after they have been notified of the date of execution, they may become mentally distressed and be unable to maintain calm.

66. The detention institution verifies beforehand the wishes of the prisoners whose capital sentence has become final concerning succession of the estate and donation of the body to medical institutions, which must be arranged with the family in advance. Thus, from this point of view as well, it is not especially necessary to notify the family of the date of the execution beforehand.

The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty

67. As stated in the third periodic report, abolition of the death penalty is directly related to the national sentiments and the domestic legislation, which is based on such sentiments. The conclusion of this Optional Protocol (which aims at the abolition of the death penalty) must therefore be examined carefully.

Article 7

Strict treatment of unlawful acts of violence committed by law enforcement organizations and measures to prevent the recurrence of such acts

68. The legal framework for the prohibition of torture and other cruel treatment is as stated in the third periodic report. For acts of violence, cruelty or the like committed against a suspect under criminal investigation or any other person by a law enforcement official involved in a criminal investigation, criminal punishment in accordance with articles 194 or 195 of the Penal Code, and severe disciplinary measures, are applied.

69. Although the occurrence of such cases is extremely infrequent (between 1990 and 1995, two persons were prosecuted in 1992, eight in 1993 and none in 1990, 1991, 1994 and 1995), strict caution is exercised to prevent any

recurrence. Law enforcement officials are required to undergo training after their appointment according to their level of experience so that they may acquire the suitable insight and further develop their awareness of human rights issues. Moreover, in the process of executing their duties superiors, who instruct and oversee junior officials, ensure that the latter are better educated so that the occurrence of such cases can be avoided.

Article 8

70. The legal framework for the freedom from slavery and involuntary servitude, except as punishment for a crime, and that for the prohibition of the exploitation of children are as stated in the third periodic report. Concerning the actual functioning of prison work, please refer to Article 10 of the third periodic report.

Article 9

Legal view

Changes as compared to the third periodic report

71. Revision of the Mental Health Law. The Mental Health Law was revised in 1987, as described in the third periodic report. The law provides the following treatment concerning patients in mental hospitals. The superintendent of each mental hospital should periodically report to the Prefectural Governor concerning the condition of each of the in-patients. The Governor should then request the Mental Health Review Board, which is established in each prefecture, to review whether patients should be kept in the hospital or not. Based on the results of the review, the necessary measures, such as to allow the patient to leave the hospital, should be taken. When in-patients or their guardians request the Prefectural Governor to let them leave hospital or improve their treatment, the Governor should request the Mental Health Review Board to review the request. The number of persons who left hospitals in 1994 under this system is as follows:

(a) Periodic report:

Person hospitalized involuntarily by the Prefectural Governor who did not need further hospitalization: 1;

Persons hospitalized for medical care and protection of the patient with the consent of the family who did not need further hospitalization: 2;

(b) Request for release:

Persons who did not need further hospitalization: 34.

72. The Mental Health Law was revised in 1995 and changed to the Law Concerning Mental Health and Welfare for the Mentally Disabled. Measures to ensure proper mental care were incorporated in this revised law. They include: measures to improve the health and welfare programme for the return to social life of persons with mental disabilities; measures to revoke the

nomination of Designated Physicians for Mental Health of those who have not undergone training every five years (except where the Minister of Health and Welfare has recognized that there is an unavoidable reason for the failure to undergo training); measures to assign full-time Designated Physicians for Mental Health to all those mental hospitals to which persons are committed involuntarily by the Prefectural Governor and hospitals for the medical care and protection of patients who are hospitalized with the consent of their family. As an exception to the regulation, a physician can postpone informing an in-patient of his/her involuntary hospitalization by the Prefectural Governor according to his/her medical condition; otherwise the patient must be notified of his/her hospitalization within four weeks.

Compensation regarding juvenile cases

73. The Compensation Law regarding Juvenile Cases, which introduced compensation for juvenile detainees, came into force on 1 September 1992 with regard to article 9, paragraph 5, of the Covenant. It provides that when a juvenile is deprived of his/her physical freedom by being detained in a Juvenile Classification Home, a Juvenile Training School, etc., compensation is to be paid to him/her, at a maximum rate of 12,500 yen per day of detention, if he/she is discharged, or his/her protective measures are revoked because there was no reason to subject him/her to such a decision, even when the act of detention was not illegal (article 4, paragraph 1, of the Compensation Law regarding Juvenile Cases; article 4, paragraph 1, of the Criminal Compensation Law).

Detention of suspects

Detention period

74. Public prosecution standards are strictly respected in Japan. While a suspect is detained, an investigation of the facts constituting an offence as well as aggravating or mitigating circumstances related to those facts must be completed. Only when, as a result, there is a firm belief that this person is guilty and prosecution is appropriate, is a public prosecution instituted. Thus, the investigation undertaken during a suspect's detention must be extremely thorough. From this point of view, a detention period of 22 or 23 days at the maximum, as described in the third periodic report, is a reasonable time period, which duly balances the needs of the investigation, that is the public interest, with those of guaranteeing the right of the suspect.

The investigation and prosecution while the suspect remains at home or on bail

75. During an investigation and legal proceedings for the public prosecution of a suspect, public prosecutors and judicial police officers consider carefully whether it is necessary to detain that person. If detention is deemed unnecessary, because of the minor degree of seriousness of the crime and the limited possibility that the suspect will destroy or alter criminal evidence or flee, they conduct the investigation and institute legal proceedings for public prosecution while the suspect remains at home. Even

after arrest, if they recognize that a suspect's continued detention is unnecessary, he/she will be released and legal proceedings for public prosecution will be instituted.

76. In only about 23 to 30 per cent of the cases handled by public prosecutors between 1990 and 1995 (excluding the cases of professional or gross negligence while driving a car and the like resulting in death or bodily injury, as well as those of violation of the Road Traffic Act and so on), was the suspect arrested. Moreover, in only about 10 to 14 per cent of the cases in which a public prosecution was instituted was the suspect(s) detained.

77. A detained defendant can be granted bail on condition that he/she pays a deposit. The defendant, the defence counsel(s) of the defendant, legal representatives, and certain relatives are permitted to apply for bail. When there is an application for bail, bail must be granted, unless there is a ground to deny it listed in article 89 of the Code of the Criminal Procedure, that is, for example, the defendant committed a crime punishable with the death penalty, life imprisonment, or imprisonment for a period of not less than one year as a statutory minimum, or there is a reason to believe that the defendant will destroy or alter criminal evidence. Even in the cases where there is no legal need to grant bail, the court can grant release on bail by virtue of its office, if it recognizes that bail as appropriate (art. 90). About 71 to 79 per cent of defendants adjudicated at first instance by district courts between 1990 and 1995 were under detention orders and about 19 to 27 per cent of defendants under detention orders were released on bail.

System for suspension of execution of detention and system for disclosure of the reasons for detention

78. Concerning the rights provided in paragraph 4 of this article, a judge must disclose the reason for detention in open court when requested by the detained suspect, defendant or the like. Furthermore, when recognized as appropriate, a court can suspend execution of detention, and when there is no longer any reason or need for the detention the court must rescind the detention either at the request of the suspect, defendant or the like, or on its own initiative.

So-called "arrest or detention on separate charges"

79. When a person is suspected of having committed two or more crimes, it is generally permitted to interview the suspect concerning a charge other than the one for which he/she is being detained. For example, such an interview may be necessary in order to look into other related facts with a view to clarifying the case as whole, or in cases where it may be more to the suspect's advantage to be questioned concerning the other charges during his/her arrest or detention for the initial charge than to be arrested or detained for each separate charge. However, as stated in the third periodic report, both the reasons and the necessity for arresting or detaining a suspect must refer to a particular legal charge. Therefore, it is not permitted to arrest or detain a suspect on a charge without reasons, or to arrest or detain him/her for the purposes of investigating other charges. In other words, "the arrest or detention of a suspect in case B for the purposes of investigating case A" is not permitted. There is judicial precedent to

exclude evidence, including confessions, obtained during an illegal arrest or detention on a separate charge. Thus, unlawful arrest or detention with the purpose of obtaining evidence is prevented.

System and practice of interviews

80. The Code of Criminal Procedure (art. 198, para. 1) provides that, when deemed necessary, a public prosecutor, public prosecutor's assistant or judicial police officer can ask any suspect to appear in their offices for an interview. However, except for the cases where the suspect is already under arrest or detention, he/she can refuse to appear and can withdraw at any time during his/her appearance (proviso clause in the same paragraph).

81. The Constitution guarantees the right to remain silent by prescribing "No person shall be compelled to testify against himself/herself" (art. 38, para. 1). In order to realize the spirit of this provision, the Code of Criminal Procedure provides (art. 198, para. 2) that a suspect has the right to remain silent and, at the time of the interview, the suspect should be notified in advance that he/she is not required to make a statement against his/her own will.

82. During the investigation, the interview of the suspect may be recorded in a written statement. The above-mentioned officers should allow him/her to peruse the statement or read it to him/her for his/her verification, and if he/she makes a motion for any addition or deletion or alteration, they should add his/her remarks in the statement (art. 198, paras. 3 and 4). When the suspect affirms that the contents of the written statement are correct, they can ask him/her to sign and seal it. The suspect may refuse to do so (art. 98, para. 5). Unless the party concerned consents, a written statement which has neither a signature nor a personal seal cannot be used as evidence (art. 322, para. 1 and art. 326).

83. Of course, compulsion, torture and threats are not permitted. Likewise, an interview which would cast doubts on the voluntary nature of the testimony of the suspect is not permitted. The Code of Criminal Procedure stipulates that any confession made under compulsion, torture or threat, or made after unduly prolonged arrest or detention, or which is not proved to have been made voluntarily, shall not be used as evidence (art. 319, para. 1). Moreover, any written statement, including admission of facts adverse to the defendant's interests, which are not proved to have been made voluntarily shall not be used as evidence (art. 322, para. 1). Due process regarding the interview and the rights of suspects and defendants is thus guaranteed under the law covering evidence.

Article 10

Legal framework

84. In addition to what has been stated in the third periodic report, copies of the book of laws and regulations, including the Covenant, have now been made available to detained persons in police custodial facilities. They are, thereby, free to read it any time.

Consultations with family members and defence counsel(s) at criminal custodial facilities

85. The right to consultations is guaranteed by article 34 of the Constitution and article 39, paragraph 1, of the Code of Criminal Procedure, as described in the third periodic report. This right is sufficiently respected as a right of suspects and defence counsels (and those who are to serve as defence counsels) in the actual criminal investigation stage. However, this right is not an absolute one and can be restricted if its restriction is compatible with the spirit of the Constitution. Consultations with the defence counsel(s) may be rejected, either (a) by exercising the designation of consultations in accordance with article 39, paragraph 3, of the Code of Criminal Procedure, or (b) based on the administrative needs of the facility in which the suspect is detained. These are explained in the following paragraphs.

Designation of consultations in accordance with article 39, paragraph 3, of the Code of Criminal Procedure

86. When necessary for the investigation, a public prosecutor, public prosecutor's assistant or judicial police officer may designate a date, place and time of consultations, in accordance with the provision of article 39, paragraph 3, of the Code of Criminal Procedure, which states: "The public prosecutor, public prosecutor's assistant and judicial police officer may, when it is necessary for the investigation, designate the date, place and time of consultations and delivery or receipt of things mentioned in paragraph 1 only prior to the institution of prosecution". The said paragraph stipulates, however, that "such designation does not unreasonably restrict his/her rights for the defence".

87. The above-mentioned provision was established to keep a balance between the right to defence of a suspect and the requirements of the investigation. The Supreme Court adopted a decision on 10 July 1978 stating that the designation of a consultation date, time and the like by investigating institutions was an exceptional measure which was unavoidable under certain circumstances, and when a defence counsel and the like sought consultations with a suspect, he/she should, in principle, be granted a chance to have such consultations at any time, while if such consultation would substantially hinder the investigation - if the suspect is being interviewed by an investigator, or if the presence of the suspect is required during an inspection or observation of the crime scene, observation, and so on - the public prosecutor and the like should, after conferring with the defence counsel and the like, designate a date and time for the consultation so as to permit the suspect to have discussion with the defence counsel as soon as possible. The Supreme Court further stated in two decisions adopted on 10 and 31 May 1991, respectively, that "substantial hindrance of the investigation" mentioned above should be considered to include not only the questioning of the suspect by the prosecutor or the requirement that the suspect be present during an inspection or observation of the crime scene and so on, but also the fact that the consultation with the defence counsel might disrupt an already scheduled interview of the concerned suspect.

88. Moreover, sufficient considerations are made in the actual exercise of these provisions to ensure that a suspect's right to defence is not unduly restricted. When a public prosecutor foresees the possibility of designating a consultation, he/she is expected to send a notice in advance to the head of the custodial facility informing him/her of that possibility. In many instances, however, the defence counsel discusses the date, time and so on of consultations with the public prosecutor by telephone and other means of communication, and accordingly the consultation is duly conducted. If the defence counsel visits the facility directly and seeks consultations with the suspect concerning the case in respect of which the above-mentioned notice has been made, an official of the facility contacts the public prosecutor and the latter judges whether designation of such consultations is necessary in accordance with the intent of the foregoing decisions of the Supreme Court. If the public prosecutor does not designate a consultation or designates only the time of the consultation, the defence counsel is allowed to consult with the suspect immediately.

89. A suspect and the like may appeal to the court if he/she is dissatisfied with the designation of date, time and so on of a consultation made by a public prosecutor and the like.

Administrative requirements of the facility

90. With regard to the rejection of a request for consultations attributed to the administrative needs of the custodial facility, as described in the third periodic report, consultations at midnight, for example, may be rejected unless it is an emergency. This kind of rejection is deemed reasonable owing to the limited human and material resources of the facilities.

91. Article 122 of the Prison Law Enforcement Regulations limits consultations to the regular working hours of penal facilities, and thus recognizes the restriction on consultations with defence counsels based on the administrative needs of these facilities. However, even on days other than regular work days, consultations are permitted under certain conditions in consideration of the importance of consultations with defence counsel on trial proceedings. This stance was adopted based on negotiations between the Japan Federation of Bar Associations and the Ministry of Justice following submission of the third periodic report.

92. Furthermore, in view of the importance of the right to consultations between detainees and defence counsels, police custodial facilities generally accept consultations whenever possible on Sundays, non-working days and during hours outside the regular working hours of the facility. As a result, conflicts between facilities and defence counsels and the like over this matter have almost disappeared.

Treatment at correctional facilities

Treatment of convicts

93. The aims of the Japanese prison administration system are the correction and social rehabilitation of convicts. The treatment described below is carried out actively, and the percentages of convicts who commit new offences

after release from prison are gradually decreasing. (The rate of subsequent imprisonment within five years after release was 50.6 per cent for those released in 1984, 47.4 per cent for those released in 1986, and 45.3 per cent for those released in 1988. The rate of subsequent imprisonment within three years was 44.8 per cent for those released in 1984, 41.9 per cent for those released in 1986, 38.9 per cent for those released in 1988, and 38.0 per cent for those released in 1990.)

94. Prison work. Prison work is a correctional programme important to the social rehabilitation of convicts. By placing convicts in a well-ordered work life, the programme helps them to keep their bodies and minds in good health, nurtures a work spirit, promotes an orderly way of life, and raises an awareness of their individual roles and responsibilities within a communal living situation. At the same time, the programme aims at promoting their social rehabilitation by providing them with vocational knowledge and skills. In particular, vocational training offered in prison work seeks to enable convicts to acquire licences and other special qualifications in around 40 different areas, including welding, construction machinery, barbering, beautician skills, and information processing for computer programmers. All of them are very useful to the convicts' social rehabilitation. A total of 2,339 convicts acquired licences or other qualifications of these kinds in fiscal year 1994.

95. Prison work is conducted in nearly the same way as at any company in the private sector in terms of work hours, work environment, work methods, etc. Regulations call for 5 days' work per week at 8 hours per day, for a total of 40 hours per week. These are nearly the same conditions as in major Japanese companies. In prisons, measures are taken to prevent accidents in all areas of prison work, in line with the Prison Work Safety and Health Management Guidelines which conform with the Labour Safety and Health Laws for private companies regulated by the Ministry of Labour. As a result, the rate of accidents in Japanese prisons is lower than that of private(-sector) factories. Convicts are prohibited from chattering during work hours; this measure is necessary to ensure safety on the job. Conversation necessary to the work is, however, permitted, and talking is not prohibited during recesses.

96. Approximately 90 per cent of convicts sentenced to imprisonment without labour, who have no obligation to perform any specific work, perform voluntarily the same type of work as convicts sentenced to imprisonment with labour. This shows that prison work is not carried out under hard conditions.

97. Counselling. Guidance on a proper life, which encourages the breaking-away from gangster groups, gives education to drug felons on the harm caused by narcotics, etc. is provided to convicts to help them foster their physical and mental health, cultivate a spirit of respect for the law, and acquire the knowledge and attitude to lead a sound social life.

98. Separation from gangster groups is indispensable to rehabilitate convicts affiliated with gangster groups. Through the entire duration of their imprisonment from entry until release, the facility provides such

convicts with full individual counselling and guidance to enable them to break away from the related organization. The facility assists them actively in finding a job.

99. The facility provides convicts whose felonies are related to stimulants and other drugs with education on the physical and social harm caused by such drugs and guidance aimed at arousing a spirit of respect for the law. The facility enhances the effectiveness of such guidance through placement of felons convicted of selling drugs and drug users in separate groups as well as such treatment methods as lectures, group discussions, counselling and so on.

100. Formal education. Among convicts, a considerable number have not completed compulsory education or have insufficient scholastic abilities despite having completed compulsory education. Such convicts are provided with supplemental education in basic academic subjects. Those who have not completed compulsory education may also take an examination for exemption from enrolment at school within the facility, which recognizes the equivalent of a junior high school graduate level.

101. Other educational activities. Facilities offer guidance in taking correspondence courses, guidance from cooperators from the outside, guidance prior to release and so on.

102. Private-sector persons cooperating from outside the facility, such as volunteer counsellors, offer advice and guidance to convicts on an individual basis concerning problems related to their reformation, methods for solving problems and so on. These volunteers, in principle, continue to provide such guidance as necessary until the convict leaves the facility. This programme is often highly effective: these volunteers from the private sector, who are enthusiastic and have rich life experiences, make a deep impression on convicts and boost their desire to reform themselves.

103. For the smooth social rehabilitation of convicts, it is necessary to minimize the gap between life within the facility and life in society after release. The facility therefore provides convicts who will be released soon with intensive counselling to prepare them for release. Facilities provide them with the knowledge of and information about employment after their social rehabilitation, experience of life and work in society, information on the probationary system and other rehabilitative services, and the necessary arrangements for returning home and the methods of earning a livelihood. Some part of this guidance prior to release had already been carried out previously according to the methods decided at each facility. Following the examination of the third periodic report, however, in recognition of the importance of counselling aimed at the social rehabilitation of convicts, facilities have extended the period of guidance and consolidated the guidance programme, with these standards now being equally applied nationwide at all facilities.

Life in the facility

104. Clothing and bedding, such as clothing, work clothes, underwear, mattresses, quilts and blankets, are lent to convicts. Unconvicted prisoners generally wear their own clothing. If they are unable to do so, however, these items are lent to them.

105. All inmates are, in principle, provided with meals, by which they can acquire the necessary caloric energy to maintain their health and physical strength, according to their sex, age, type of work assignment, etc. Unconvicted prisoners, however, may at their request and at their own expense obtain food from the outside.

106. Efforts have consistently been made to improve the menus. However, after the examination of the third periodic report, a review was undertaken in 1995 for further improvement: for the purpose of preventing obesity and geriatric diseases, the caloric volume of staple food is to be reduced in stages and that of side dishes is to be increased. At the same time, the menu is to be improved by changing the standard amounts of nutrients (proteins, vitamins and so on) contained therein.

107. Rooms for inmates are of two types, single or communal. Generally, a communal room is shared by six to eight inmates. Each room is provided with a dining table, small study desk, cleaning implements and other items necessary for daily living. Windows are large enough to permit inmates to read under natural light conditions, and also designed to enable the intake of fresh outside air.

108. Inmates may take a bath twice each week (three times in summer). Bathing time is approximately 15 minutes (20 minutes for females) on average. In summer, some facilities allow inmates to towel down after work each day.

109. Because physical exercise is vital to inmates' health, optimum measures are taken in this regard on all but bathing days. Exercise is carried out outdoors and indoors during inclement weather.

110. Physical examinations and measures against geriatric diseases are, as in society, conducted actively. Medical care is provided to inmates by doctors and other medical specialists assigned to the premises. When an inmate suffers from an ailment which is difficult to treat at the correctional facility or which requires special medical treatment, or when he/she requires long-term recuperation from his/her medical conditions, he/she is sent to medical facilities with a high concentration of advanced medical equipment and medical specialists or to medical prisons (branch prisons) where they can receive adequate medical treatment. There are some medical prisons which have been designated as hospitals in conformity with the Medical Service Law. If proper medical treatment is difficult within the facility, either in terms of personnel or physical equipment, the facility provides special medical care to inmates by having them examined by outside medical specialists, admitting them to outside hospitals, etc. An adequate number of doctors are allocated to correctional facilities with a ratio of 1 per every 137 inmates.

111. Discipline and order within penal institutions must be strict to maintain a proper environment for the treatment of inmates and their safe and peaceful communal life. The Standard Minimum Rules for the Treatment of Prisoners also require that discipline and order be maintained with firmness. Discipline and order within penal institutions should not be needlessly harsh but must be securely and unwaveringly enforced.

112. In principle, when inmates enter and leave the facility for court appearances and so on, or when convicts go to work in the factory or return from the factory to their cells, they and their clothes are physically searched. This measure is indispensable, in light of many incidents in the past, to prevent security breaches, such as inmates escaping, bringing in or taking out dangerous or improper items and so on. Searches are carried out within the scope of reasonable necessity. Physical searches are in general conducted by touch on their clothing. However, when convicts leave to work in the factory or return from the factory to their cells, the search is normally conducted visually: when convicts change from their cell clothes to work clothes and vice versa, they are, most often, visually searched with their underwear on.

113. Solitary confinement by day and night is a form of room accommodation for those who require separation from other inmates. This measure is taken as a form of detention, in conformity with the regulations of the Prison Law, when such a need is recognized in overall consideration of factors such as the convict's length of sentence, crime record, behaviour within the prison, personality, relationships with other convicts, adaptability to group life, security conditions within the facility and so on. The room for solitary confinement by day and night is of the same structure as the rooms where inmates are detained in solitude at night. It is never equipped with any inferior items, such as a smaller window or no desk, compared to the latter.

114. Persons placed in solitary confinement by day and night are, in principle, required to remain within their cells. Exceptions are made, however, for exercise, bathing, consultations, medical examinations and other unavoidable circumstances. A convict may be placed in solitary confinement by day and night if he/she otherwise would create difficulties in protecting his/her physical safety. Such a situation may arise, for example, with a convict who is extremely self-centred and uncooperative and who, if put in contact with other convicts, would be subject to harm by other convicts who might take displeasure at or hold a grudge against said person.

So-called "substitute prison"

Police detention system

115. Most police stations in Japan have custodial facilities. The facility detains suspects arrested in accordance with the Code of Criminal Procedure, as well as unconvicted prisoners detained by a detention warrant issued by a judge in accordance with the Code of Criminal Procedure. Approximately 120,000 persons arrested by the police each year are detained in police custodial facilities. Except when the arrested person is released, he/she is brought before a judge pursuant to a request for detention from a public prosecutor, and the judge decides whether the detainee should be held in custody or not. The number of suspects whom the judges have decided to detain in police custodial facilities is about 90,000 persons each year. The average duration of detention in police custodial facilities is about 20 days.

116. As regards the place of detention, the Code of Criminal Procedure (art. 64) provides that suspects should be detained in prison. The Prison Law (art. 1, para. 3) stipulates that the police custodial facility may be

substituted for a prison (in general, the facility housing unconvicted persons is called a house of detention). This system of using the police custodial facility as the place of detention instead of prison is called the "substitute prison system". The place of detention, whether it is to be a house of detention or a police custodial facility, is not regulated by the Code of Criminal Procedure. Instead, the judge determines the place of detention upon request by a public prosecutor by taking into consideration the various circumstances of each case (art. 64, para. 1, Code of Criminal Procedure).

117. Although various opinions have been expressed regarding this system, it is utilized extremely fairly, as the following paragraphs demonstrate, and the human rights of detainees are fully preserved.

Life in the police custodial facility

118. Aspects of life for detainees in police custodial facilities are described in concrete terms below. Efforts are constantly made to improve and enhance both the facilities and the equipment of the custodial facilities to make the living environment more comfortable. Moreover, efforts are made continuously to further enhance measures to protect the human rights of detainees through improvements in food and the promotion of treatment respectful of the special needs of foreigners and females. Extra attention is also being paid to the guidance and education of the officials in charge of detention, which aims at enabling them to carry out their work with full consideration for the human rights of detainees.

119. Design of the custodial facility. Rooms are designed in such a way as to protect the privacy of the detainees. The front of the room is covered by an opaque board so that prison guards cannot constantly view the detainees. The floor of the room is covered with a carpet or tatami mat (Japanese-style mat). Floors in older custodial facilities now have all been changed either to carpet or tatami mats. Considering the Japanese custom of sitting directly on tatami mats, detainees are able to continue this same lifestyle even in their detention rooms. In principle, one room is allocated to each detainee. Standards are set to ensure the amount of space necessary for the proper treatment of detainees.

120. Progress is being made to maintain the health of detainees and improve their treatment by equipping all custodial facilities nationwide with fully automatic clothes washers and dryers, futon dryers, showers, refrigerators, and gas sterilizer and hand disinfectors to prevent infection by AIDS and so on.

121. Behaviour during detention. The detainee's behaviour is not restricted in his/her room, as long as it does not hinder the peace of other detainees or is directed against the purpose of detention. Resting or lying down outside regular sleeping hours is widely permitted.

122. Maintaining the health of detainees. About 30 minutes are earmarked each day to maintain the health of detainees by enabling them to exercise in an outdoor exercise area. The exercise area is no less than 10 square metres in size, open to sunlight and fresh air. Exercise time may be extended to more than one hour at the detainee's request.

123. Room lights are dimmed during regular sleeping hours so as not to hinder sleep. Efforts are made to conduct interviews during regular working hours (normally from 8.30 a.m. to 5.15 p.m.). Even when interviewing is conducted outside regular working hours, if such interviewing continues past the set hour for going to sleep (usually around 9.00 p.m.), as regulated in the custodial facility's time schedule, the custodial section will request the investigating section to terminate the questioning. Moreover, if the detainee is delayed in going to sleep because of interviewing, compensatory measures, such as delaying wake-up time the following morning, are taken to ensure that the person has adequate sleeping time.

124. Doctors employed part-time by the police perform health examinations of detainees twice each month. In the event that the detainee is injured or ill, appropriate medicine is provided and the detainee is examined without delay by a doctor, paid for with public funds. Sick persons requiring special treatment are taken to an outside hospital. If a detainee wishes to be examined by a doctor of his choice at his own expense, regular visits on an outpatient basis are allowed. All possible measures are taken to ensure that the health of detainees is not harmed as a result of their detention in police custodial facilities.

125. Meals are provided three times a day. Meals are checked regularly by qualified dieticians to ensure that they are sufficient in the light of the standard living situation and so on, and a good nutritional balance is maintained. Further efforts are also made to improve the nutrition of meals in detention houses. Detainees are also allowed to purchase from the outside, at their own expense, meals or goods such as bread, fruit, candy, milk products and so on. They may also receive such goods from the outside.

126. Custodial facilities take measures to ensure adequate ventilation and natural light. They seek to maintain a comfortable temperature 24 hours a day through the use of heating and cooling equipment and other apparatus.

127. Purchase of daily necessities and so on. Food, clothing and other daily necessities may be purchased at the detainee's own expense, or it may be sent to him/her.

128. Consultations, sending and receipt of letters and so on. Guaranteed are, in principle, consultations with a defence counsel and the like and the delivery of letters to and from them. Visits with family members and other persons as well as the delivery of letters to and from them are also guaranteed as a general rule, except when the court imposes restrictions to achieve the purposes of detention. Efforts are also made to improve facilities. Rooms for meetings, are, for example, enlarged to enable the detainee to meet comfortably with multiple defence counsels or family members, and measures are taken to ensure that conversations during consultations cannot be heard outside the room. These measures are taken to better guarantee the detainee's right to secrecy between himself/herself and his/her defence counsel.

129. Reading of newspapers, books and so on. Detainees are permitted, free of charge, to read daily newspapers and books, which are kept on the premises. They may also listen to news, music programmes and the like on radio during set hours each day, for example, during meals.

130. Physical searches and examinations for injuries, illness and so on. Within the limits necessary to ensure the safety of detainees and maintain order within custodial facilities, officials in charge of detention carry out physical checks of detainees when they arrive for detention and whenever they leave or enter the facility. Verbal and visual confirmation is made of the detainees's health condition in addition to confirming that the detainee does not have in his/her possession any weapon or dangerous object. The necessary measures are taken, such as having the detainee examined by a physician, if the detainee states that he/she has an illness or injury, or when there is the possibility of him/her having an illness or injury.

131. Treatment of foreign-nationality detainees. Work is in progress to equip more custodial facilities with the latest CD-ROM-based portable interpreter (accommodating 14 languages, namely English, Mandarin Chinese, Cantonese Chinese, Thai, Tagalog, Urdu, Spanish, Persian, Korean, Malay, Bengali, Russian, Vietnamese and Myanmarese) capable of providing abundant sample sentences both visually and aurally. These measures provide appropriate treatment of detainees of foreign nationality. Consideration is also given to accommodating, as far as possible, the customs of foreign detainees with respect to diet, religious activities and so on.

132. Treatment of female detainees. Adequate consideration is given to the treatment of female detainees to meet their special needs, although no formal distinctions are made between males and females relative to the fundamental conditions of their treatment while in the police custodial facility. Female detainees are kept separate from male detainees, and neither group can see the other. Measures are also taken so that males and females do not encounter each other during exercise, or when entering or leaving the facility. Physical searches of female detainees and monitoring of their baths are conducted by female police officers or female officials only. Consideration is also given to the treatment of female detainees to enable them to use cosmetics, such as lotions, creams, hair dressing and combs, hair brushes in washrooms and so on, as may be necessary for their personal grooming. Waste baskets and so on are provided to allow the detainee to directly dispose of any used sanitary napkins. Because it is desirable for female detainees to be treated in all areas by female police officers, whenever possible, efforts are undertaken to increase custodial facilities exclusively for females at which all treatment of detainees is conducted by female officers.

133. As described and explained above, the treatment of detainees carried out in Japanese police custodial facilities fully guarantees the human rights of the detainees and complies with the United Nations Standard Minimum Rules for the Treatment of Prisoners.

Separation of investigation and detention

134. There is strict separation between the police section in charge of the treatment of detainees and the section in charge of criminal investigations. This is necessary to guarantee the human rights of detainees. The treatment of detainees is carried out solely on the responsibility and judgement of personnel from the detention section, and it is impossible for investigators to control or influence the treatment of suspects held in police custodial facilities. The interview of suspects is conducted in interview rooms outside the detention facility or, in some cases, in an interview room under the jurisdiction of the Ministry of Justice. Investigators are prohibited from entering the custodial facility.

135. The section in charge of the treatment of detainees is directed by the head of the Administrative Section. The section is overseen by the Detention Administration Division of Police Headquarters and the Detention Administrative Officer of the National Police Agency.

136. The specific measures to separate investigation and detention are outlined below. The official in charge of detention administration at the National Police Agency and his staff make nationwide regular visits to police custodial facilities to make sure that rules are thoroughly enforced. If a police officer should do anything improper in violation of the following policies, severe punishment is meted out.

137. Notification at start of detention. New detainees are informed at the start of their detention that the treatment of detainees is carried out completely by those in charge of detention tasks.

138. Checks upon entering and leaving custodial facility and so on. When the detainee is to be taken out of the custodial facility as required for the investigation, the chief investigator, after actually checking the necessity of each case makes a written request to the chief detention officer and then the transfer is made with the approval of the chief detention officer. Each responsible official in charge of the investigation and of the detention checks ensure that an investigator does not do anything improper, such as interfere in the treatment of the detainee. The time of departure and entry are recorded in the ledger prepared by the detention staff on all detainees, and a rigid check is carried out by the detention section. This record, if requested by a judge and the like, may be submitted in court.

139. Preservation of daily routine. Efforts are made to preserve the detainee's regular daily routine. Officials in charge of detention may, when necessary, request the chief investigator to end or interrupt an interview or other investigative activities in order to avoid hindering the daily routine in terms of eating, sleeping and other activities.

140. Provision of meals. Meals are one of the most important aspects in the treatment of suspects. Investigators are not allowed to make them have meals in interview rooms.

141. Handling of visits and items sent to detainees. The handling of visits and reception of items from outside are the domain of detention personnel. Hence, even if a request regarding those matters is made to an investigator, officials in charge of detention invariably have authority.

142. Physical searches of detainees and their possessions, and storage of possessions. Physical searches of detainees and of their possessions, as well as storage of possessions, are carried out under the responsibility of the chief detention officer. It is not permitted for an investigator to attend such searches or to store such possessions.

143. Transfer of detainees for interviews with the public prosecutor, for medical treatment and so on. Transfers of detainees from the custodial facility to an interview room under the jurisdiction of the Ministry of Justice for purposes of the prosecutor's investigation or from the custodial facility to a medical facility for medical treatment and so on, are conducted under the responsibility of the officials in charge of detention. In principle, the detainee is escorted by a member of the administrative section, or at least by someone who is not involved in the investigation at hand.

Article 11

144. Non-fulfilment of a contractual obligation in Japan merely gives rise to civil obligation to compensate. As has been stated in the third periodic report, such non-fulfilment does not constitute a crime under Japanese law. No one may, therefore, be detained on that ground.

Article 12

Policies of Japan concerning refugees

Treatment of and procedures for recognizing refugees

145. Since the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees of 31 January 1967 took effect in Japan in 1982, Japan has been faithfully and rigidly carrying out the various stipulations set out in the Convention and the Protocol. The system and its implementation by Japan for recognizing refugees and granting landing permission for temporary refuge, as provided in the Immigration Control and Refugee Recognition Act, conform with the content of the Convention and the Protocol.

146. As of the end of September 1996, the status of processing work concerning the recognition of refugees was as follows:

Applications accepted	1 259 persons
Results	
Applications withdrawn	201 persons
Recognized as a refugee	208 persons
Rejected	702 persons
Pending	148 persons

Indo-Chinese refugees

147. The number of refugees who have settled in Japan from Viet Nam, the Lao People's Democratic Republic and Cambodia is 10,085 as of the end of September 1996.

148. As for the so-called "Vietnamese boat people", Japan had been allowing their landings since May 1975. In order to cope with the rapid increase of boat people, a so-called "screening system" (which aims to draw a distinction between genuine refugees fleeing from persecution and so-called economic refugees seeking a more affluent life) to examine landing permission for temporary refuge had been in practice since 13 September 1989. This system was introduced based on agreements reached at the International Conference on IndoChinese Refugees held in June 1989. However, this system of examining landing permission for temporary refuge was suspended after 5 March 1994 following the agreements reached by the Steering Committee of the same Conference in February 1994, in view of changes in the political and economic situations of the countries concerned. Since then, procedures are taken forcibly to deport boat people as illegal aliens, just like other foreigners who are in Japan illegally. In cases where these boat people make claims that they are refugees, procedures for recognition of refugee status are set in motion.

149. The number of boat people who have entered Japan as of 4 March 1994 is 13,768. The number of boat people who arrived between 5 March 1994 and the end of September 1996 is 171.

Article 13

Deportation

Determination procedure for deportation of foreigners

150. Deportation of foreigners from Japan is implemented in accordance with the Immigration Control and Refugee Recognition Act, which stipulates the grounds and procedures for deportation. The Act clearly establishes the grounds for deportation. The procedures under the Act aim at confirming whether a suspected ground for deportation in fact exists, while simultaneously allowing the suspect to present his/her objections. More precisely, a foreigner who has been found liable for deportation by an Immigration Inspector on one or several grounds established in the Act, may request an oral hearing before a Special Inquiry Officer if he/she objects to the Immigration Inspector's finding. Furthermore, if the foreigner objects to the Special Inquiry Officer's decision that a ground for deportation does exist, he/she may file an appeal with the Minister of Justice requesting a final decision by the Minister of Justice.

151. These procedures, which are often called "preliminary procedures", take place before a final decision on deportation is taken. No actual deportation is carried out during these procedures. In addition to the full protection provided by this three-stage preliminary procedure, the foreigner whose deportation has finally been decided under the above-mentioned procedure, may seek judicial relief under Japan's judicial system to contest an

administrative decision. Moreover, the above-mentioned oral hearings offer the suspect opportunities to present his/her opinions or introduce exculpatory arguments and evidence. The suspect may appoint an attorney and receive his or her assistance.

Exceptional cases of deportation to countries where there are possibilities of personal persecution

152. With respect to the countries to which deportees are returned, the so-called non-refoulement rule, whereby in principle no foreigner may be deported to a country or region where he/she will be persecuted, is clearly declared in article 53, paragraph 3, of the Immigration Control and Refugee Recognition Act. However, the non-refoulement rule does not apply to those cases where the Minister of Justice decides that Japan's interests or public security would be gravely harmed by applying the rule. In other words, the rule does not apply to those who the Minister of Justice recognizes to be dangerous to the security of Japan, and those who were sentenced to imprisonment for one year or more and are recognized by the Minister to be dangerous to the society.

Article 14

153. Japan's legal framework relevant to this article is as stated in the third periodic report. Additional points are provided below.

System for cases of required defence counsel

154. In cases of a certain level of importance, where the death penalty or imprisonment for life or for a term of more than three years is a statutory penalty, the trial or hearing may neither commence nor continue without a defence counsel, to protect the defendant's rights and ensure a fair public trial. In such cases, when no defence counsel appears or is appointed the court appoints an official defence counsel to the defendant.

Disclosure of evidence to the defence for trial preparation

155. When a public prosecutor intends to submit evidence at a public trial, the defendant or defence counsel is given in advance the opportunity to know the names and addresses of witnesses, expert witnesses, interpreters or translators, as well as the opportunity to peruse evidential documents and exhibits. As regards the evidential documents or exhibits a public prosecutor intends to submit, he or she is obliged to give the defendant or defence counsel the opportunity to access them as early as possible before the date of the trial. In addition, the court may in certain cases, in the course of the examination of evidence, individually issue a discovery order of evidence held by the public prosecutor. The defendant and defence counsel are thus guaranteed adequate opportunities to access evidence necessary for the preparation of the trial.

Changes to the Code of Civil Procedure

156. The Code of Civil Procedure is in force in Japan regarding the proceedings for civil lawsuits. The Code covers the contents of this article.

However, the section in the Code which regulates procedures for civil lawsuits has been modified only partially on several occasions subsequent to a complete revision carried out in 1925. The structure of civil lawsuit proceedings stands today fundamentally as it was in 1926. Dramatic social changes, economic development and other changes have taken place since the Code was enacted and civil disputes have accordingly become more complex and diversified. For these and other reasons, questions are being raised as to whether, from a variety of perspectives, the rules on civil lawsuit proceedings laid out in the law as it stands fit the circumstances of today's society. In this connection also, a variety of problems and dissatisfaction relating to civil lawsuits, such as the excessive time taken for trials, have been pointed out both at home and abroad.

157. Given such circumstances, the Sub-Committee on Civil Procedures of the Legislative Council of the Ministry of Justice, an advisory body to the Minister of Justice, began deliberations in July 1990 on undertaking a complete review of rules governing civil lawsuit proceedings, aimed at making civil suits easier to use and to understand. The Sub-Committee carried out its task cautiously, on two occasions gathering a broad range of opinions from concerned groups, such as members of the legal profession, universities, industrial organizations, trade unions and the like. It then drew up a proposal of outlines for reform, based on which the "Outlines for Reform of Civil Suit Proceedings" was proposed to the Minister of Justice on 26 February 1996. The Bill of Civil Procedure, based on the proposal, was submitted to the Diet on 12 March 1996. Following partial modification, it was passed on 18 June 1996. The new law is to take effect on a date to be fixed by cabinet order, but no later than two years from 26 June 1996, the date of its promulgation. The major points of reform in the new "Code of Civil Procedure" are as described below.

Improvement of procedures for consolidating points of contention and evidence

158. Three types of procedure have been established, namely the preparatory oral argument, which aims at consolidating points of contention and evidence; the argument preparatory procedure, which makes improvement on the current preparatory proceedings; and written preparatory procedure, which is a procedure for consolidating points of contention and evidence by submitting written preparatory documents and other materials, without the appearance of the party concerned. The above-mentioned choice of procedure for consolidating points of contention, as appropriate to each case's nature, content and so on, is expected to facilitate consolidation of points of contention and the like appropriately and quickly.

Expansion of proceedings for gathering evidence

159. The range of written documents subject to an order of submission has been expanded, while giving due consideration to the prevention of any abuse, to facilitate the gathering of evidence necessary for the lawsuit and thereby enabling adequate preparation for the consolidation of the case's points of contention and the like. The procedures for ordering the submission of written documents have also been improved. Moreover, procedures of inquiry of

the parties have been established, which enable information necessary for the preparation of the party's claims and proof to be acquired directly from the other party.

Creation of small-claims suit proceedings

160. Special civil lawsuit proceedings have been established for those cases which seek payment of less than 300,000 yen. The proceedings call, in principle, for deliberations to be completed in one day with a judgement rendered on the same day. Under the proceedings court may render judgements ordering payment in instalments or granting a grace period for payment, taking into consideration the financial circumstances and the like of the defendant, to facilitate defendants fulfilling their sentence voluntarily. The proceedings aim at offering ordinary citizens an opportunity to have their disputes settled properly, quickly and at a reasonable cost.

Improvement of the system of appealing to the Supreme Court

161. Regarding appeals to the Supreme Court, a system for receipt of appeals has been introduced, which authorizes the Supreme Court, by ruling, not to accept an appeal for those cases which do not contain important issues of interpretation of law and ordinance. At the same time, for the cases disposed of by ruling, a system has been introduced which permits an appeal to the Supreme Court. Under the system, a party may appeal to the Supreme Court with the permission of a High (Appellate) Court, in cases which contain important issues of interpretation of law and ordinance. The reform thus aims at enabling the Supreme Court to fully carry out its important responsibility to unify interpretations of the Constitution, law and ordinance.

The system of legal aid

162. The legal aid system is established to guarantee "the right to trial", as stipulated in article 32 of the Constitution, as described in appendix 1 to the second periodic report. The system covers costs of litigation, defence counsel and other fees for those, including foreign nationals in Japan, who would otherwise be unable to pursue a civil lawsuit due to their poverty.

163. In principle, disbursements must be repaid in full. However, in cases involving special circumstances, such as the inability to acquire payment of money from the other party, repayment is deferred temporarily or excused. The main body for legal aid activities in Japan is the Legal Aid Association founded in 1952 by the Japan Federation of Bar Associations. The Government of Japan makes efforts to ensure the proper administration of legal aid activities by paying subsidies to the association and overseeing its operations.

164. The number of cases receiving such legal aid has increased each year. In fiscal year 1995, the number of such cases was 6,147. (In addition, as a special measure, legal aid was provided in 1,373 cases involving victims of the Hanshin-Awaji earthquake of January 1995.)

Article 15

165. As is stated in the third periodic report, article 31 of the Constitution provides that criminal penalties shall be imposed only in accordance with the procedure established by law, while article 39 prohibits ex post facto law. Thus, the right referred to in article 15 of the Covenant is guaranteed.

Article 16

166. As is stated in the third periodic report, the Constitution provides that people shall be respected as individuals (art. 13), that people shall enjoy fundamental human rights (art. 11), that the right to life, liberty and the pursuit of happiness should be respected (art. 13) and that no person shall be denied the right of access to the court (art. 32). Thus, the rights of individuals are ultimately guaranteed by judicial remedies.

Article 17

Regulations and situations pertaining to wire-tapping

167. The secrecy of communication and personal information is guaranteed in Japan by the Radio Wave Law, the Wire Telecommunications Law and the Telecommunications Business Law, as has already been stated in the third periodic report. The police work to crack down on crimes which invade the secrecy of communication and personal information.

168. Wire-tapping is prohibited under article 104 of the Telecommunications Business Law and article 14 of the Wire Telecommunications Law. Offenders are subject to criminal prosecution and punishment.

Situation pertaining to the protection of personal data held by administrative organs

169. As is stated in the third periodic report, in recent times the "right of portrait" and the right to non-disclosure of past events which may injure the honour and reputation of persons have been considered to be protected under the law under the name of the "right to privacy". These rights are recognized as human rights guaranteed by article 13 of the Constitution.

170. The Government has responded to these developments and the progress in the processing of personal data by computer in recent years. Furthermore, as stated in the third periodic report, Japan enacted the Act for Protection of Computer Processed Personal Data held by Administrative Organs, in which the basic procedures relevant to the treatment of computer-processed personal data are stipulated. Any person is entitled to request disclosure of data pertaining to himself/herself. Any person may also apply for corrections and so on.

Article 18

Report on amendments to the Religious Juridical Persons Law

171. The Religious Juridical Persons Law took effect in 1951. This law aimed at conferring juridical personality to religious organizations, thus allowing them to secure a material basis to conduct their free and autonomous activities, based on the principles of the guarantee of freedom of religion and the separation of Church and State as provided in the Constitution. The law does not aim at overseeing religious organizations or to regulate their religious activities.

172. The Religious Juridical Persons Law was enacted in light of the social conditions of its time. Because facets of the law became unable to respond appropriately to subsequent changes in social conditions and the actual state of religious juridical persons, Japan amended the law in 1995, to the minimum degree necessary. The purpose of the amendments was to better respond to these areas, while still upholding the purposes of the law itself. The amendments do not enable the competent authorities to interfere or intervene in the religious activities of religious juridical persons, nor to control or oversee religious juridical persons.

173. The amendments concern the following:

(a) To respond appropriately to religious juridical persons which are active over a broad area, the Minister of Education has been assigned as the competent authority of religious juridical persons, which possesses religious buildings in plural prefectures;

(b) To enable the competent authorities to constantly ensure that religious juridical persons act in accordance with their inherent purposes, the documents which are designated for keeping at the principal offices of religious juridical persons have been taken under review. Furthermore, it has been made mandatory for religious juridical persons to submit copies of financially relevant documents, including investigations and cash-flow statements, to the competent authorities;

(c) To contribute to more democratic and transparent management of religious juridical persons, some of their followers and other persons with vested interests have been allowed to access the above-mentioned documents kept at the offices;

(d) To clarify the procedures by which the competent authorities may exercise their jurisdiction in cases which are recognized as requiring this, such as when seeking a dissolution order from the courts, they may demand reports from or make inquiries into the religious juridical persons.

174. Needless to say, every individual and group can conduct religious activities freely without establishing juridical persons in exercise of the freedom of religion as guaranteed in the Constitution.

Measures to prevent discrimination against workers based on thought or creed

175. Article 3 of the Labour Standards Law forbids employers from practising any discriminatory treatment against workers, in terms of wages, work hours or other labour conditions, because of the worker's creed.

Article 19

Restrictions on freedom of expression

Textbook authorization

176. Japan follows the textbook authorization system under the School Education Law for textbooks which serve as the principal teaching material in courses taught in elementary, junior high and high schools. Under this system the Minister of Education examines books which are written and edited in the private sector and decides whether they are appropriate as textbooks. Those which are deemed acceptable are to be used as textbooks.

177. The demands to guarantee the right of nationals to receive an education at the elementary, junior high and high school levels are as follows:

(a) The maintenance and enhancement of education levels nationwide;

(b) The guarantee of equal opportunity in education;

(c) The maintenance of appropriate educational content; and

(d) The guarantee of neutrality in education.

The textbook authorization is carried out to meet these demands. It merely prohibits the publication of textbooks as principal teaching materials if such books contain material which is recognized to be inappropriate. Such restriction of the freedom of expression is within the limits of rationality and necessity. This line of thinking was also apparent in a decision handed down by the Supreme Court on 16 March 1993.

Restrictions on the mass media (freedom of reporting)

178. As stated in the third periodic report, the rights stipulated in this article are guaranteed under article 21, paragraph 1, of the Constitution. Freedom of reporting is likewise guaranteed under this article. Freedom of the press is treated differently, depending on whether it is exercised through the broadcast or the print media.

179. Broadcasting. The Broadcast Law stipulates four principles of broadcast programmes:

(a) Broadcast programmes should not injure public peace and good morals;

(b) They should be politically fair;

(c) They should not distort facts; and

(d) Issues on which opinions are divided should be treated from as many viewpoints as possible.

In addition, the law provides that there should be a balanced ratio of different categories of programmes (art. 3-2, paras. 1 and 4).

180. Newspapers. There exist no laws regulating newspaper reporting. Newspaper companies in Japan establish the "Newspaper Ethics" themselves, and these Ethics are used as the guidelines in fulfilling the social responsibility of newspaper companies. If news is to have correct contents, the freedom of gathering materials should be guaranteed. But in some cases, data-gathering activities are contrary to the interests of a third party. As to the limit on these activities, a judicial precedent (judgement of 31 May 1988 of the Supreme Court) states as follows: "Needless to say, even the press has no privilege to violate unreasonably the rights and freedoms of others in the course of data-gathering activities. The news-gathering activities take a form not approved in the light of the spirit of the entire legal system and social concepts not only when the means and methods of these activities involve bribes, intimidation, compulsion or any other act violating general penal criminal laws and ordinances, but also in the cases in which these activities greatly injure the personality of any individual. Such cases must be regarded as beyond the scope of reasonable data-gathering activities and as illegal". Article 215 of the Criminal Procedure Enforcement Regulation restricts news-gathering activities as follows: no photographing, recording or broadcasting in the courtroom is allowed without prior approval by the court.

Article 20

181. Regarding paragraph 1 of this article, a very strong negative feeling against war exists among the Japanese people and it is almost inconceivable that any propaganda for war could actually be carried out, as is stated in the third periodic report. This situation has not changed. Thus, as stated in the third periodic report, should there emerge a danger of a harmful effect of propaganda in future, legislative measures would be studied, as the occasion demands, with careful consideration for freedom of expression.

182. Regarding paragraph 2 of this article, as stated in the third periodic report, should there arise in the future actual adverse effects which could not be regulated under the existing legislation, further legislative measures would be studied, with careful consideration for freedom of expression to the extent that public welfare is protected.

183. Also, as stated in the report on article 2, Japan ratified in December 1995 the International Convention on the Elimination of All Forms of Racial Discrimination. However, regarding article 4 of the Convention, which requires States parties to punish "all dissemination of ideas based on racial superiority or hatred" and "incitement of racial discrimination", Japan made a

reservation stating that it fulfils the obligations stipulated in (a) and (b) of article 4 to the extent that the fulfilment of those obligations is compatible with the guarantee of the rights to freedom of assembly, association and expression and other rights under the Constitution.

Article 21

184. As stated in the third periodic report, the right stipulated in article 21 of the Covenant is guaranteed under article 21, paragraph 1, of the Constitution. Restrictions on this right (those are under article 5 of the Subversive Activities Prevention Law and article 19, paragraph 1, item 3, of the Infectious Disease Prevention Law) are limited to the necessary minimum and are in conformity with the provisions of this article.

Article 22

Legal framework

185. As stated in the third periodic report, the rights stipulated in this article are guaranteed under the related domestic laws and ordinances. Japan furthermore ratified related ILO Conventions and is faithfully adhering to them.

Trade unions

Outline

186. Aiming in particular to "elevate the status of workers by promoting their being of equal standing with their employer in their bargaining with the employer", the Trade Union Law is intended "to protect the exercise by workers of autonomous self-organization and association in trade unions so that they may carry out collective action including the designation of representatives of their own choosing to negotiate working conditions", and "to encourage the practice of collective bargaining, and procedures therefor, for the purpose of concluding collective agreements governing relations between employers and workers" (art. 1, para. 1). The Law also prohibits, as unfair labour practices, an employer treating an employee who is a member of a trade union in a disadvantageous manner; refusing to bargain collectively without proper reasons; and controlling or interfering with a trade union (art. 7). To offer a remedy for unfair labour practices, Labour Relations Commissions shall be established (as independent administrative commissions), consisting of persons representing employers, persons representing workers and persons representing the public interest.

Number of labour unions and level of participation

187. The number of labour unions (local labour unions) in Japan stood at 70,839 in 1995 and the number of labour union members (individual labour unions) at 12,614,000 persons. The ratio of labour union members to all employees is estimated at 23.8 per cent (table 5 refers).

Table 5. Number of labour unions, labour union members and estimated level of participation, 1995

Number of labour unions	Number of labour union members	Number of employees	Estimated level of participation
32 065 (70 839)	12 614 000 (12 495)	50 309 000	23.8%

Source: Ministry of Labour, "Basic Survey of Labour Unions" (as of 30 June 1995).

Notes: (1) Number of labour unions and labour union members based on individual (i.e. enterprise-based) labour unions. Figures in parentheses based on local (i.e. locality-based) labour unions.

(2) Number of employees based on the "Labour Force Survey" compiled in June 1995 by Statistics Bureau of the Management and Coordination Agency.

Remedy by Labour Relations Commission

188. Workers or trade unions may apply to a Labour Relations Commission for a remedy for unfair labour practices by their employers. When the Labour Relations Commission, following examination, judges the complaint to have due reason, it issues its order to the employer concerned to desist.

189. A system of procedures for seeking remedy for unfair labour practices through the Labour Relations Commission was established in order to further promote the protection of workers in addition to judicial means of redress and as a way to afford workers and trade unions a way to demand a remedy.

Applying the Subversive Activities Prevention Law to religious groups

190. The Director-General of the Public Security Investigation Agency, acting under the Subversive Activities Prevention Law, petitioned the Public Security Examination Commission in July 1996 to issue a directive for the dissolution of a religious group with the name of "Aum Supreme Truth".

191. An order of dissolution is carried out when the condition for the order to disband as stipulated in the above Law, is satisfied. The condition is that a group which has conducted "terrorist subversive activities" has been found to pose a potential threat to carry out "terrorist subversive activities" in the future, either intermittently or repeatedly. An order of dissolution is "a restriction which is prescribed by law and which is necessary in a democratic society in the interest of public security, [and] the protection of the rights and freedoms of others", described under articles 18 and 22 of the Covenant. (The Commission dismissed the petition in January 1997 due to the lack of sufficient proof that the group would present a serious threat in the foreseeable future.)

Article 23

Report on the draft bill for the partial revision of the Civil Code (amendment to allow the retention of separate family names for spouses, improvement of regulations on the grounds for divorce)

192. Starting in 1991 and lasting over a five-year period, the Legislative Council, an advisory body to the Minister of Justice, undertook a review of regulations pertaining to marriage and divorce, etc. in the Civil Code. The Council adopted the draft bill for partial revision of the Civil Code and reported to the Minister in February 1996. The report, taking into consideration that approximately half a century has elapsed since 1947 when the regulations of the Civil Code concerning marriage and divorce currently in force were revised comprehensively, and also taking into account that during that period changes have occurred in the social situation as well as in the public consciousness concerning marriage and divorce, suggests the revisions of major items pertaining to the laws governing marriage and divorce as follows:

(a) Under the current law, the eligible age for marriage is 18 for males and 16 for females. Under the revisions, the age is to be 18 for both males and females;

(b) Under the current law, a female is prohibited from remarrying for six months following the date of the dissolution or annulment of her marriage. Under the revisions, this period is to be shortened to 100 days, the minimum period required to avoid overlapping in presumption of legitimacy;

(c) In the matter of family names assumed by married couples, under the current law, a couple shall, upon agreement at the time of marriage, assume the family name of either the husband or the wife. Under the revisions, a couple may, upon agreement at the time of marriage, either assume the family name of the husband or the wife, or separately retain the family names they had prior to their marriage;

(d) Matters necessary for child custody, such as meetings and communication between a child and a parent not having custody, and the sharing of the costs of child custody shall be clarified at the time of divorce;

(e) Objectives and circumstances to be considered concerning the distribution of matrimonial property at the time of divorce shall be clarified;

(f) It shall be clarified that irretrievable breakdown of a marital relationship is a ground for judicial divorce.

Article 24

193. The legal framework in Japan pertaining to the rights stipulated in this article and the actual receipt thereof are as described in the initial report on the Convention on the Rights of the Child. The major portions pertaining to the third periodic report on this Convention are as specified below.

The right to acquire nationality (initial report of the Convention on the Rights of the Child, article 7, portion)

194. The Nationality Law of Japan adopts, in principle, the bilineal jus sanguinis principle. It stipulates that a child shall be a Japanese national when, at the time of birth, the father or the mother is a Japanese national (art. 2 (1) of the Nationality Law). However, as there is a possibility that a child born in Japan may become stateless if this principle is applied rigidly, the jus soli principle is also adopted to prevent statelessness. In other words, a child shall be a Japanese national if the child is born in Japan and both parents are unknown or have no nationality (art. 2 (3) of the Nationality Law). Though this may still be insufficient to prevent a child from becoming stateless under certain limited circumstances, a child may, under article 8 (4) of the Nationality Law, acquire Japanese nationality by naturalization if he/she was born in Japan, has had no nationality since the time of birth, and had his/her domicile in Japan for three or more consecutive years. A stateless child can therefore acquire Japanese nationality very easily.

The right to maintain personal relations for a child separated from one or both parents (initial report, article 9, portion)

195. Meetings and correspondence are basically allowed a child who is separated from one or both of its parents, or a child one or both of whose parents are, or who itself is, detained in an immigration centre, a Juvenile Training School, a Juvenile Classification Home, a prison, a mental hospital and so on. In an immigration centre, maximum freedom is guaranteed insofar as it does not pose a threat to the security of the centre (paragraph 7 of article 61 of the Immigration Control and Refugee Recognition Law and articles 34 and 37 of the Regulations for Treatment of Prisoner refer).

School rules (initial report, article 28, portion)

196. Corporal punishment is strictly prohibited under article 11 of the School Education Law in Japan. The Ministry of Education gives instructions to educational institutions to realize the principle of this law at every possible opportunity.

197. The human rights organs under the Ministry of Justice, if they receive such reports or information on corporal punishment, investigate the cases suspected to have infringed upon human rights through hearing explanations from the people concerned. After investigation, they enlighten (with "instruction" or "warning") the teacher, the principal of the school and others on the human rights of children and request them to take measures to prevent the repetition of such acts. Furthermore, they carry out activities for enlightenment in cooperation with schools and local communities. In 1994 and 1995, among all cases involving infringement of human rights (16,035 cases in 1994 and 16,296 cases in 1995), cases of corporal punishment numbered 89 and 111, respectively.

Article 25

198. Japan's legal framework relevant to this article is as has already been described in the third periodic report.

Article 26

Shares in succession of an illegitimate child

Government initiative

199. In the comments of the Human Rights Committee which followed the examination of the third periodic report, an observation was made to the effect that the provision of Japan's Civil Code (art. 900, para. 4) which stipulates that the statutory share in succession of an illegitimate child shall be one half that of a legitimate child, was not consistent with this article. However, the Government of Japan does not consider that a distinction between the statutory share in succession of an illegitimate child and that of a legitimate child necessarily constitutes unreasonable discrimination against illegitimate children.

200. Notwithstanding the above and taking due account of the fact that the establishment of an inheritance system depends primarily on legislative policy, if changes occur in the social circumstances surrounding inheritance it is necessary to respond to such circumstances and undertake a review of the system. Based on such considerations the Government of Japan is currently considering legal reform which would equalize the statutory share in succession of an illegitimate child with that of a legitimate child. Relevant revisions in this direction were suggested in the draft bill for partial revision of the Civil Code, which was adopted in February 1996 by the Legislative Council, an advisory body to the Minister of Justice.

201. Also, taking due consideration of the fact that the Civil Code adopts a system based on legal marriage, makes a distinction between legitimate and illegitimate children, and distinguishes between the two not only in matters of family name and person having parental authority, but also with respect to the statutory shares in succession, it is necessary to record in the family register the same distinction between legitimate and illegitimate children, since Japan's family register system aims at correct recording and authentication of family relationships under such substantive laws as the Civil Code. The distinction between legitimate and illegitimate children in the family register is, as described above, reasonably based on distinctions under the Civil Code.

National public opinion

202. An opinion survey conducted in 1996 showed that 38.7 per cent of the public are of the opinion that the current system should be maintained, while only 25.0 per cent expressed the view that the statutory shares in succession of legitimate children and illegitimate children should be equalized. Thus, it is difficult to say that public consensus has been reached on the reform of this system.

The Dowa problem

203. The Government has, based on three "special measures laws", promoted various measures concerning the Dowa problem, recognizing that this problem is an important issue relating to the fundamental human rights guaranteed by the Constitution. As a result, large improvements, including those in the physical living environment, have been realized rectifying the gap that had existed in various aspects. Those improvements have been confirmed by fact-finding surveys carried out in Dowa districts in fiscal year 1993. On the other hand, psychological discrimination concerning the Dowa problem still deeply persists, especially in matters relating to marriage, although this discrimination is steadily disappearing as a result of education and enlightenment measures implemented in a variety of creative ways.

204. The law regarding the Special Fiscal Measures of the Government for Regional Improvement Projects, the law covering this problem, was set to lapse in March 1997. The Council on the Policy of Regional Improvement, as a national council on this problem, submitted on 17 May 1996 a report entitled, "Basic measures for the future targeted at an early resolution of the Dowa problem". The Government, taking full account of this report and the agreement among the ruling parties, on 26 July 1996 made a Cabinet Council decision on measures for the future targeted at an early resolution of the Dowa problem. The outlines of this decision are as follows.

205. First, temporary legislative measures shall be taken for 15 of the projects in order to ensure the smooth transfer from special fiscal measures to general ones for the 45 kinds of projects under way under the current law as mentioned above. Other measures shall be taken to see that the remaining projects are smoothly transferred to the ones under general measures.

206. Second, the Government actively promotes measures related to the United Nations Decade for Human Rights Education and has stepped up counselling services on human rights relevant to the promotion of education and enlightenment leading to the elimination of psychological discrimination and the enhancement of relief measures.

207. Third, steps are continuously being taken to establish self-administration to improve the self-reliance of Dowa district residents, to eliminate questionable actions purportedly on behalf of the Dowa, and to create an environment for free exchange of opinion on the Dowa issue.

Article 27

Policies relating to the Ainu* people

Hokkaido Utari measures

208. The living standard of the Ainu people has improved steadily, but the gap between the living standard of the Ainu and that of the general public of

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* Ainu means "human being" in the Ainu language; Utari means "compatriot"; Waijin means all other Japanese.

Hokkaido and that of the Ainu has not narrowed according to the "Survey on the Hokkaido Utari Living Conditions" conducted by the prefectual government of Hokkaido in 1993. The prefectual government of Hokkaido therefore endeavours to improve further the living standards of the Ainu people and to eliminate the difference in living standards by promoting the "Fourth Hokkaido Utari Welfare Measures (1995-2001)" as a continuation of the "Third Hokkaido Utari Welfare Measures", which were described in the third periodic report.

209. The Government of Japan, as described in the third periodic report, continues to offer its cooperation in the above measures, which are being promoted by the prefectual government of Hokkaido, and it is working to complete the related budgets so that these measures may come into effect smoothly.

Round Table on the Policy for the Ainu People

210. Following a request by the Chief Cabinet Secretary, the Round Table on the Policy for the Ainu People started considering policy for the Ainu in March 1995. A report was submitted to the Chief Cabinet Secretary in April 1996. This report concludes that it is desirable for the Government of Japan to take appropriate measures, including legislation, in order to preserve and promote the Ainu language, traditions and culture, and abolish the former Hokkaido Natives Reservation Dispensation Law and other laws.

211. The report is based on the characteristics and circumstances of the Ainu people, who have lived in Hokkaido since the end of the Middle Ages, even before the Wajin peoples arrival. The Government of Japan expressed its commitment to take appropriate measures, respecting this report and studying the details of its contents.